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ENVIRONMENTAL PERMITS

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MONTANA INDEX OF ENVIRONMENTAL PERMITS

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Keep in mind...

This document summarizes in lay language portions of Montana law that deal with the use and development of the state's natural resources. It is not, however, a legal document and should not be relied on exclusively to determine legal responsibilities.

MESSAGE FROM GOVERNOR TED SCHWINDEN

This Index of Environmental Permits has been prepared through the cooperative efforts of the Department of Health and Environmental Sciences and the Environmental Quality Council. It serves as an example of how the executive and legislative branches of state government can work together for the greater good of Montana.

The Index is designed for use by both major corporations and small operators interested in development projects in Montana. It summarizes the process of obtaining an environmental permit. The Index of Environmental Permits should assist the state in one of the primary goals of my administration—promoting economic development in Montana without adversely affecting our unique and fragile environment.

TED SCHWINDEN
Governor
State of Montana

MONTANA ENVIRONMENTAL QUALITY COUNCIL

The Montana Legislature's Environmental Quality Council was established in the early 1970s by the Montana Environmental Policy Act (MEPA). MEPA charged the Council with researching and reviewing state regulations and policies affecting Montana's environment, gathering information on current environmental issues, and recommending measures to "foster and promote the general welfare, to create and maintain conditions under which man and nature can coexist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Montanans."

As part of its efforts to fulfill these responsibilities, the Environmental Quality Council presents this Index of Environmental Permits, developed in cooperation with the Montana Department of Health and Environmental Sciences. The Index should better enable developers and government officials in identifying and insuring compliance with applicable environmental laws and regulations. By facilitating this process, Environmental Quality Council hopes to encourage sound economic development, which is a vital part of Montana's unique environment.

The Environmental Quality Council staff members should be considered a primary source of information on the state's environmental laws and programs. Don't hesitate to contact them for help.

Rep. Dennis Iverson, Chairman
Environmental Quality Council

DEPARTMENT OF HEALTH and ENVIRONMENTAL SCIENCES

The basic functions of the Department of Health and Environmental Sciences are to protect and promote the health and welfare of the people of Montana through the implementation of beneficial public health and environmental protection programs and the enforcement of public health and environmental laws and regulations. It is the responsibility of the Department to assess health care needs and problems; in cooperation with local and private sources, develop and implement programs designed to meet health needs and alleviate problems; to continually evaluate current public health programs and administer programs for the protection of the state's air and water quality and management of solid and hazardous wastes.

John J. Drynan, M.D., Director

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introduction

The Index of Environmental Permits was prepared through mutual agreement between the Environmental Quality Council and the Department of Health and Environmental Sciences in an effort to consolidate a comprehensive list of permits and licenses that must be obtained in order to engage in activities having potential impact on the environment in the State of Montana. These agencies intend that the Index will assist persons contemplating such activities. If a proposed project even remotely resembles any of the areas of regulation listed here, the appropriate authorities should be contacted for more complete information, forms, time requirements and so forth.

The Permit Checklist presents the Index's organization in summary form. By proceeding down the checklist, the reader should be alerted to the types of regulations that may apply to his or her proposed activity.

Several indexes are provided to increase the utility of the Directory. Index I contains a listing of state permitting agencies and the activities they regulate. Index II lists state agency regional offices that may be contacted for specific information and permit applications. Index III lists local permitting authorities and the types of permits with which they are involved. Index IV lists federal agencies having regulatory responsibilities for activities undertaken in the state. Index V is an alphabetical listing of all topics treated in the Directory.

During the compilation of this Index, every effort was made to be accurate and comprehensive. *However, this is not a legal document and should not be relied on exclusively to determine legal responsibilities.* In most cases, the Index will alert the citizen to the need to obtain permits or licenses, but more detailed information regarding standards, operating requirements, enforcement and other non-permit aspects of the law, always should be obtained from the administering agency before proceeding with a project.

It should also be noted that this Index is primarily concerned with activities that may directly impact the physical environment. For information regarding business licenses, taxes and general non-environmental permit requirements, contact the Small Business Advocate, Division of Business Assistance, Montana Department of Commerce.

permit summary

SPECIAL AREAS: Is your project located in one or more of the following special areas? If so, check with the appropriate authorities for special land use and activity restrictions.

Airport zone	page 1
Antiquity site	page 2
Conservation district	page 2
Floodway or floodplain	page 3
Forest areas	page 4
Highway right-of-way	page 7
Lakeshores	page 9
Open space - conservation easements	page 10
State lands	page 11
Streambed-streambanks-wetlands	page 12

GENERAL BUILDING AND CONSTRUCTION: Consult with appropriate authorities for the following:

Building codes and restrictions	page 14
Fire inspection	page 15
Planning and zoning	page 15

WATER: If your project will require the use of water, development of a water supply or sewer system or discharge into state waters, check with the Department of Natural Resources and Conservation (DNRC) and the Department of Health and Environmental Sciences (DHES).

Public water supply	page 16
Sewer systems	page 17
Water discharge permits	page 17
Water appropriations - diversions	page 20

AIR: If your project will involve discharge of air contaminants into the atmosphere, check with the DHES.

Air pollution permit	page 32

SPECIFIC CATEGORIES: In addition to the foregoing, if your project involves one or more of the following categories, additional regulations may apply:

Agriculture	page 24	Mining	page 54
Carriers - Transportation	page 28	Oil and gas	page 68
Commercial-Industrial-Energy	page 32	Recreational vehicles	page 72
Food processing or service	page 39	Solid waste-Hazardous waste	page 74
Forestry	page 43	Subdivisions	page 79
Hunting-Fishing-Trapping-Wildlife	page 44	Utilities	page 83
Lodging-Camping	page 51	Weather modification	page 86

MEPA: Any project which may have a significant impact on the environment may require preparation of an environmental impact statement (EIS). page 88

directory of permits

SPECIAL AREAS

If the development or activity is to be located in one of the following special areas, check with the appropriate authorities for special land use and activity restrictions.

AIRPORT ZONES

1. *Applicability*

The height of buildings and structures is regulated within two miles of public airports. Searchlights and other lights may be prohibited. Permits for construction, vegetation and other vertical obstructions must be obtained from the local governing body that owns or operates the airport.

Statute: Airport Zoning Act, 67-6-101 Montana Code Annotated (MCA), *et seq.*
Contact: Local Government
Zoning Board

2. *Application Requirements*

No permit may be granted to an applicant for construction in an airport zone if the structure will become a hazard to air navigation. A variance may be granted, however, if enforcement of the rules would cause unnecessary hardship, the proposed construction is not contrary to the public interest and the new structure does not present an immediate hazard to safe flying conditions.

Statute: 67-4-311,313, MCA

3. *Criteria*

The local government must establish criteria and guidelines for regulation of the airport zone. Among others, the following criteria must be considered: Safety of airport users, character of flying operations, noise levels, terrain, future development and Federal Aviation Administration regulations.

Statute: 67-4-203, MCA

ANTIQUITY SITES

1. *Applicability*

State agencies must avoid, whenever feasible, state actions, or state assisted or licensed actions, that substantially alter heritage properties or paleontological remains on lands owned by the state. A permit from the Historic Preservation Office is required to excavate in a registered antiquity site. Permits are available only to museums, academic institutions, historical societies and similar organizations.

Statute: Preservation of Antiquities Act, 22-3-421, *et seq.*, MCA

Rule: Agencies are in process of adopting rules; check with individual agencies or the Historical Society.

Contact: Montana Historical Society

2. *Environmental Review Requirements - State-Owned Lands*

Whenever any state agency prepares an environmental impact statement (EIS) on any project, and the EIS identifies heritage properties on state-owned land which may be impacted by the project, the agency must consult with the state heritage preservation officer to develop plans to avoid or mitigate such impacts. The applicant for a permit, lease or license may be required to develop such a plan. (See MONTANA ENVIRONMENTAL POLICY ACT, P. 88)

If adverse impacts on such properties cannot adequately be avoided or mitigated, the license, permit or lease may be denied.

Statute: 22-3-433 and 22-3-434, MCA

CONSERVATION DISTRICTS

1. *Applicability*

Lands located within a soil and water conservation district may be subject to land use regulations adopted and administered by conservation district supervisors. Check with local conservation district supervisors for specifics. Types of activities regulated may include the following: engineering operations for dams, dikes, ponds, ditches, fences and other construction; cultivation methods or grazing, including contour cultivating and furrowing, sowing, planting, seeding and forestation; cropping and tillage practices, and other practices to prevent soil erosion.

See: AGRICULTURAL ACTIVITIES, P. 24
FORESTRY, P. 43
SUBDIVISIONS, P. 79

Statute: 76-15-701, MCA, *et seq.*

Contact: Soil and Water Conservation District Supervisors

FLOODPLAINS AND FLOODWAYS

1. *Applicability*

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local government or from the Department of Natural Resources and Conservation (DNRC) if local authorities have not adopted rules. Local governments may adopt land use regulations, including floodplain management regulations within sheetflood areas, that may restrict development. If local regulations are not adopted, DNRC must enforce minimum standards adopted by the Board of Natural Resources and Conservation (BNRC).

Statute: Floodplain and Floodway Management Act, 76-5-101, MCA, *et seq.*

Rule: Administrative Rules of Montana (ARM) 36.15.101, *et seq.*

Contact: Local Government
Department of Natural Resources and Conservation
Engineering Bureau

2. *Application Requirements*

The application for a permit for obstructions or uses in a designated floodplain or floodway must be submitted to the DNRC or local government and contain required information, including maps, plans, profiles and specifications of the obstruction or use of the watercourse or drainway.

Statute: 76-5-405(2), MCA

3. *Procedure for Obtaining Permit*

Permits for obstructions or uses in a designated floodplain or floodway must be approved or denied within a reasonable time, usually 60 days.

Statute: 76-5-405(2), MCA

4. *Fees*

An application fee of $10 is required for a floodplain or floodway obstruction permit.

Statute: 76-5-405(3), MCA

5. *Criteria*

The following criteria must be considered in evaluating a permit application: danger to life and property by water that may be backed up or diverted by the obstruction or use; danger that the obstruction or use may be swept downstream and injure people; the availability of alternate construction and locations to lessen danger; permanence of the obstruction or use; anticipated development in the area, and other factors specified by law.

Statute: 76-5-406, MCA

FOREST AREAS: BURNING PERMITS

1. *Applicability*

During the forest fire season (May 1 - September 30 or as extended), permits are required from the recognized protection agency for the area (county, state or Forest Service) to ignite or set a forest fire, slash-burning fire, land-clearing fire, debris-burning fire or an open fire within forest lands. Air pollution permits also are required from the Air Quality Bureau, DHES, at all times of the year for burning or other activities that may pollute the air.

Statutes: 7-33-2205,75-2-211 and 76-13-121, MCA

Rules: ARM 16.8.1405; 26.6.301-304,501-503

Contact: County Sheriff or Board of Commissioners

Department of State Lands
Forestry Division Area Supervisor

National Forest Service
Forest Supervisor

Department of Health and Environmental Sciences
Air Quality Bureau

FOREST AREAS: CABIN SITES

1. *Applicability*

Licenses for cabin sites on state forest lands may be obtained from the Department of State Lands (DSL), Forestry Division. DSL rules govern use and maintenance of such sites.

Rule: ARM 26.6.401

Contact: Department of State Lands
Forestry Division

FOREST AREAS: CHRISTMAS TREE CUTTING

1. *Applicability*

A permit for Christmas tree cutting on state land must be obtained from the DSL.

Rule: ARM 26.6.402

Contact: Department of State Lands
Forestry Division

FOREST AREAS: PORTABLE SAWMILLS

1. *Applicability*

   A license from the DSL is required to operate a portable sawmill on private, state or federal forest lands.

   Statute: 76-13-502, MCA

   Contact: Department of State Lands
   Forestry Division

2. *Application Requirements*

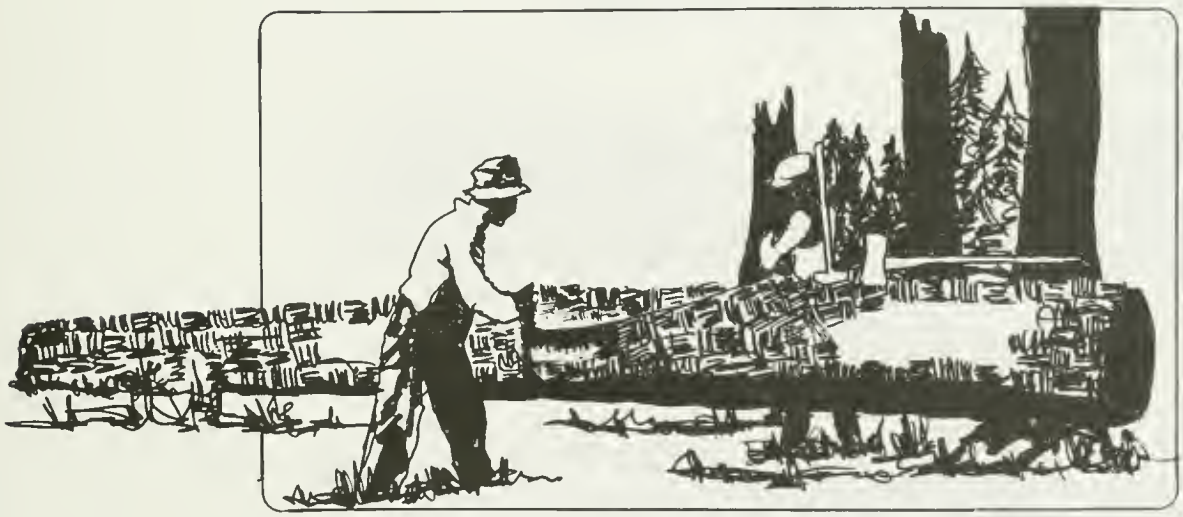
   An applicant for a license to operate a portable sawmill must apply to the DSL in writing, stating name, location of proposed sawmill, capacity of sawmill and anticipated date of initial operation.

   Statute: 76-13-503(l), MCA

3. *Fees*

   The application for a portable sawmill license requires a $2 fee.

   Statute: 76-13-503(2), MCA



FOREST AREAS: REMOVAL OF TIMBER

1. *Applicability*

Permits for removal of dead or inferior timber from state forests are required from the DSL or from the Board of County Commissioners on county forests. Permits may be issued free of charge to residents of a county to use dead or inferior timber for fuel and domestic purposes. Permits also may be issued to citizens of Montana for commercial purposes at commercial rates without advertising for timber on state or county forests in quantities of less than 100,000 board feet, or in cases of emergency due to fire, insects or blowdown. Farmers, ranchers and prospectors also may obtain permits for timber on state forests in quantities not to exceed 25,000 board feet for domestic purposes in the repair and development of the farm or ranch.

Statutes: 7-8-2608, 2609; 77-5-211, 212, 213, MCA

Contact: Board of County Commissioners

Department of State Lands
Forestry Division Area Supervisor

2. *Fees*

Fees are set annually by the Board of Land Commissioners. Check with the DSL regarding the required fees.

Statute: 77-5-204(4), MCA

FOREST AREAS: SLASH DISPOSAL

1. *Applicability*

Fire hazard reduction agreements and the posting of a bond with the DSL are required before conducting any timber cutting or timber stand improvements on private lands, or right-of-way clearing by public or private utilities. The DSL must be notified at least 10 days prior to any clearing for right-of-way. The DSL will issue a certificate of clearance when the agreement for reduction of fire hazard has been executed.

Statute: 76-13-407 through 413, MCA

Rules: ARM 26.6.501-503

Contact: Department of State Lands
Forestry Division Area Supervisor

HIGHWAY ADVERTISING

1. *Applicability*

A permit is required from the Department of Highways (DOH) for outdoor advertising signs along the right-of-way of interstate or primary highways. Standards for permitted advertising are outlined in the statute and rules.

Statute: Outdoor Advertising Act, 75-15-112 *et seq.*, MCA

Rules: ARM 18.6.201-272

Contact: Department of Highways
Field Offices or Helena Headquarters

2. *Application Requirements*

The applicant for an outdoor advertising permit must complete a form furnished by the DOH. The owner of the land affected must agree to the erection or maintenance of the advertising sign.

Statute: 75-15-122(1), MCA

3. *Fees*

The initial fee is $6. Permits are issued for three years and renewed every three years on payment of $3.

Statute: 75-15-122(1),(2), MCA

HIGHWAY RIGHT-OF-WAY: APPROACH PERMITS

1. *Applicability*

Permits are required from the DOH for the construction of driveways and other approaches intersecting public streets and highways.

Rules: ARM 18.5.104 *et seq.*

Contact: Department of Highways
Area Field Maintenance Bureau

2. *Application Requirements*

Application for an approach permit must be made by the owner or contract purchaser, and such permits must be only for the purpose of securing or changing access to property. A brief description of the proposed work must be included in the request together with a plot plan and the location. No more than two approaches will be granted to any single property tract or business establishment. Exception may be made where the frontage exceeds 500 feet or special conditions exist that may benefit the traveling public.

Rule: ARM 18.5.104, 18.5.105

3. *Procedure for Obtaining Permit*

a) A request for a permit to construct or reconstruct any residential, commercial, industrial, public street or road approach should be made to the Chief of the Field Maintenance Bureau having jurisdiction over the area.
b) Upon receipt of the request, the Chief of the Field Maintenance Bureau will arrange for a meeting with the applicant in order to discuss the proposed approach.
c) Field Maintenance Bureau personnel and the Division Traffic Engineer have authority to approve curb cuts and public and private approaches.

Rule: ARM 18.5.104

HIGHWAY RIGHT-OF-WAY: ENCROACHMENTS - EASEMENTS

1. *Applicability*

Permits are issued by the DOH for construction or maintenance of encroachments on or under highway rights-of-way. (Encroachments include all private structures, devices and facilities placed upon, over or under the right-of-way. These include ditches, dikes, flumes, canals or bridges; and water, sewer, electric, natural gas and communications lines.) Written permission is required from the Board of County Commissioners for any excavation or construction across county highways. Permission for easements and encroachments on or across state highway rights-of-way may be obtained from the DOH.

Statute: 7-14-2139, MCA

Rules: ARM 18.7.101-108

Contact: Board of County Commissioners, Road Supervisor, County Surveyor

Department of Highways
Area Field Maintenance Bureau

See also HIGHWAY UTILITY PERMITS, P. 85

ROADSIDE JUNKYARDS

See: MOTOR VEHICLE WRECKING FACILITIES, SOLID WASTE, P. 78

LAKESHORES

1. *Applicability*

If the local government has adopted lakeshore protection regulations, a permit is required for any work that will alter the course, current, or cross-sectional area of a navigable lake or its shore. Such activities include construction of channels or ditches; dredging of the lake bottom to remove muck, silt or weeds; ponding; filling; or constructing breakwaters or wharves and docks. Upon petition from the adjacent landowners, the DNRC may adopt and enforce regulations. A person who performs work in a lake without the necessary permit may be required to restore the lake to its previous condition.

Statute: 75-7-204, 205, 207, 209, MCA
Contact: Local governing body authorized to administer Montana Subdivision and Platting Act on land adjoining a lake.

Department of Natural Resources and Conservation

2. *Procedure for Obtaining Permit*

a) Local Regulations: Check with local government for specifics.
(1) The local government must seek the recommendations of the local planning board.
(2) The local government may provide a summary procedure to permit work it finds has a minimal or insignificant impact on a lakeshore.
(3) The planning board must report its recommendations to the local government as to whether the proposed work conforms to the criteria for issuance of a permit, and it may require the applicant to submit additional information prior to making its recommendations.
(4) A variance from local regulations may be obtained if an environmental impact statement is prepared and a public hearing held.

b) Time requirements
Unless the applicant for a lakeshore work permit agrees to an extension, the governing body must grant or deny the permit within 90 days.

Statute: 75-7-207, 211, 212, 213 MCA

3. *Fees*

The fee for a work permit in a lake area is $10.

Statute: 75-7-210, MCA

4. *Criteria*

Local regulations must, as a minimum, insure that the proposed work will not materially diminish water quality or habitat for fish or wildlife, interfere with navigation or recreation, create a public nuisance or create an undesirable visual impact. Local criteria may be more stringent.

Statute: 75-7-207 and 75-7-208, MCA

OPEN SPACE - CONSERVATION EASEMENTS

1. *Applicability*

Any public body may acquire title to or interest in real property for the purpose of preserving natural, scientific, educational or aesthetic resources. An interest less than fee simple ownership is obtained by "conservation easement", whereby the landowner relinquishes to the holder of the easement the right to develop the land or alter its natural character. The terms of the easement may prohibit or limit construction, excavation, surface uses, etc.

The existence of such an easement should appear on the deed to the property.

Statute: 76-6-101, MCA, *et seq.*

Contact: Local Government
County Clerk and Recorder

Department of Fish, Wildlife and Parks
Parks Division

NATURAL AREAS

1. *Applicability*

A natural area is one affected primarily by natural forces, with evidences of human activity at a minimum, and with outstanding natural features worthy of preservation. State-owned lands which are controlled or acquired by the Board of Land Commissioners may be designated as natural areas. Lands so designated will be managed by a "managing entity" and will be subject to a master plan setting forth specific land use limitations and controls.

Statute: 76-12-101, MCA, *et seq.*

Rules: ARM 26.5.201 *et seq.*

Contact: Board of Land Commissioners

Department of State Lands
Land Administration Division

2. *Procedures*

Recommendations for designation are made to the Board by the DSL or by other state or local agencies or citizens' groups. The Board will act on such recommendations, either approving or rejecting the designation. If an area is designated, a "managing entity" will be appointed to administer a master plan for the area. The managing entity may be the DSL, a local government or a private organization.

3. *Criteria for Land Use Decisions*

Before making any land use decisions, the DSL must review all proposals for potential impacts which might unalterably preclude the designation of a potential state natural area. If a preliminary review indicates that an area which would be affected by a land use decision might qualify for natural area designation, the DSL may take up to one year to evaluate the proposal. If this evaluation indicates that the area qualifies as a natural area, the original land use proposal will not be approved. However, the Board will not designate any natural area if the designation would reduce the long-term compensation to the school trust fund.

Rule: ARM 26.5.203

STATE LANDS

1. *Applicability*

Activities on state-owned land generally require permits, leases or easements from the DSL and approval from the Board of Land Commissioners. See: ANTIQUITY SITES, P. 2; AGRICULTURE, P. 24; FORESTRY, P. 43; GEOTHERMAL DEVELOPMENT, P. 34; HYDROELECTRIC SITES, P. 35; MINING, P. 64; NATURAL AREAS, P. 10; and OIL AND GAS, P. 68.

In addition, the Departments of Fish, Wildlife and Parks (DFWP), Natural Resources and Conservation and other state agencies should be contacted for information regarding rules and procedures on lands owned or administered by those agencies.

2. *Easements.*

The Board may grant easements on state lands for school-house sites or grounds, public parks, community buildings, cemeteries or other public uses upon proper application accompanied by accurate and verified plats. The Board also may grant an easement for right-of-way across any portion of state lands for any public highway or street, ditch, reservoir, railroad, private road, telegraph or telephone line, or any other public use. Application for an easement on state lands must be made to the DSL. Compensation must be the full market value of the use of the land, plus any decrease in value of adjacent state lands. Settlement must also be made with existing lessees of state lands. An arbitration panel may be appointed to resolve settlement disputes.

3. *Exchange of Land.*
The Board is authorized to exchange state land for private land provided that the private land is of equal or greater value than the state land and as closely as possible equal in area. Prior to the land exchange, a public hearing must be held in the county containing the state land to be exchanged. Objections to the exchange may be made at the hearing.

4. *Sales of Land.*
The Board is authorized to sell state lands, with the exceptions of timberlands and those lands containing valuable deposits of coal, oil, oil shale, phosphate, metals, sodium or other valuable minerals. No person or corporation may purchase more than 160 acres of state land susceptible to irrigation. All sales of state lands are conducted only through public auction held at the county courthouse of the county in which the lands are located.

5. *Leases.*
State lands may be leased in compact parcels to any person over 18 years old, heads of families and to associations, partnerships and corporations. When the DSL receives an application to lease an unleased tract, it will advertise for bids and accept the highest bid, unless the Board determines that not to be in the best interest of the state. For more details on specific types of leases, see AGRICULTURE, P. 24; FORESTRY, P. 43; MINING, P. 64; GEOTHERMAL, P. 34; OIL AND GAS, P. 68.

Statute: Title 77, Chapters 1-6, MCA

Rules: ARM Title 26, Chapters 2 and 3

Contact: Department of State Lands

STREAM BEDS - STREAM BANKS - WETLANDS

1. *Applicability*

Any physical alteration of a natural perennial flowing stream, its beds or immediate banks requires approval from either the conservation district supervisors (Title 76, Chapter 15, MCA), the grass conservation district supervisors (Title 76, Chapter 16, MCA), or the board of county commissioners where a conservation district does not exist. In addition, a permit is required from the Army Corps of Engineers for any dredge and fill activity or other work affecting "navigable waters" or wetlands.

Statutes: Streambed and Land Preservation Act, 87-5-501 MCA, *et seq.*
Rivers and Harbors Act, 33 USC 401 *et seq.*

Rules: 33 CFR 209 and 40 Federal Register 31319 and ARM 36.2.401,*et seq.*

Contact: Conservation District Supervisors

Board of County Commissioners

Army Corps of Engineers
District Engineer

Department of Fish, Wildlife and Parks

2. *Procedure for Obtaining Approval*

a) Within 5 days of receiving a notice of a proposed project, the district supervisors or county commissioners must determine whether the propsosal is for a project covered by the Act. Within the same 5 days, they must send a copy of their determination to the DFWP and the applicant. If the supervisors or commissioners determine that the proposal is not a project, the applicant may, upon written notice, proceed with the activity.

b) If the supervisors or commissioners determine that the proposal is for a project, the DFWP, within 5 days, must notify the officials whether it requests an on-site inspection by a team consisting of a member of the district, a representative of the applicant and a member of the DFWP or commission. If an on-site inspection is requested, the supervisors must call a team together within 20 days, and the team must make a recommendation within 50 days.

c) The supervisors or commissioners must review the recommendation and make a decision on the proposed project within 60 days.

d) If a member of the team or the applicant disagrees with the supervisors' or commissioners' recommendation, he may ask that an arbitration panel be appointed to hear the dispute and make a final written decision. The arbitration panel must consist of three members chosen by the senior judge of the judicial district in which the dispute takes place.

Statute: 75-7-112 through 116, MCA

3. *Emergencies.*

No prior notice or approval is necessary for emergency actions taken to safeguard life or property during a period of emergency. However, notice must be given to the supervisors or commissioners within 15 days following the emergency action. A team must be called together as described above to evaluate the project.

Statute: 75-7-113, MCA

4. *Criteria*

The purposes of review are to preserve streams in their natural state and to keep soil erosion and sedimentation to a minimum, after giving consideration to the needs of agriculture and other beneficial uses of water.
Statute: 75-7-102, MCA

5. *Public Projects*

Before engaging in any project which may obstruct or alter a stream, a state or local government agency must first submit a notice to the DFWP, on forms provided by the DFWP, at least 60 days prior to commencement of construction. Within 30 days after receipt of project plans, the DFWP must notify the applicant whether the project will adversely affect fish or wildlife habitat. The DFWP may require modifications in the project. If agreement cannot be reached, an arbitration panel may be appointed by the district court.
Statute: 87-5-501 MCA, *et seq.*

Contact: Department of Fish, Wildlife and Parks
Ecological Services Division

6. *Stream crossings*

Construction activity which may cause short-term turbidity in streams may receive exemptions from water quality standards. See WATER POLLUTION, P. 17

GENERAL BUILDING AND CONSTRUCTION

One or all of the following general regulations may apply to all types of developments and activities. The appropriate authorities always should be contacted to determine the applicable regulations.

BUILDING CODES AND RESTRICTIONS

1. *Applicability*

The state-wide building code applies to all construction throughout the state with the exception of residential structures with fewer than five dwelling units, farm and ranch buildings and private garage and storage structures used only by the owner. Such structures may be regulated only if municipalities or counties adopt local ordinances. If towns or counties adopt local building codes, enforcement is by local rather than state authorities.

2. *Procedures*

A permit must be obtained from appropriate authorities before construction can begin. A certificate of occupancy must certify that the building conforms to the applicable building code requirements.

Statute: 50-60-101,MCA, *et seq.*
Rules: ARM 2.23.101 *et seq.*
Contact: City or Town Council
Board of County Commissioners

Department of Administration
Building Codes Division

3. *Fees*

Required fees for construction, plumbing, electrical systems and so forth are listed throughout the rules for building codes. Refer to the rules regarding the required fees.

Rules: ARM 2.23.101 *et seq.*

FIRE INSPECTION

1. *Applicability*

Buildings designed for assembly, business, educational, industrial, institutional or residential (other than single-family private homes) occupancy must meet fire escape, fire alarm and fire extinguisher requirements. Architectural plans for construction or alteration must be submitted to and a permit obtained from the State Fire Marshal. Enforcement responsibilities are shared by the Fire Marshal, county sheriffs and municipal fire chiefs.

Statute: 50-61-101 *et seq.*, MCA

Contact: County Sheriff

Municipal Fire Chief

Department of Justice

State Fire Marshall

PLANNING AND ZONING

1. *Master Plan*

The master plan is the primary land use planning document of the city or county. After a public hearing, the planning board recommends the plan to the governing body, which either rejects it or accepts it with or without modification. All zoning ordinances and land use decisions must "be guided by and give consideration to" the master plan.

Statute: Title 76, Chapters 1 and 2, MCA

Contact: Local Government
Local Planning Board

2. *Zoning Regulations.*

Cities, towns and counties may adopt zoning regulations and establish zoning districts for the regulation of height and size of buildings, percentage of lot occupied, size of yards, density of population, location and use of buildings and so on. Local zoning regulations, if any, should be checked before commencing any development or activity. Permits are required. No zoning rule may prevent the complete use, development or recovery of any mineral, forest or agricultural resources by the owner.

Statute: 76-2-101,MCA, *et seq.*
Contact: Local Government
Local Zoning Board

WATER

If the project requires the use of water, the development of a water supply, or discharge of wastes into state waters, the following regulations may apply. (See also, IMPROVEMENT and UTILITY DISTRICTS, P. 86).

PUBLIC WATER SUPPLY

1. *Applicability*

A water system serving ten or more families or 25 or more persons for 60 days out of the calendar year must be approved by the DHES. Plans and specifications for public water supply wells must be approved, as well as plans for construction, alteration or extensions of any water system or treatment facilities. Public water supply systems for food and lodging establishments licensed by the DHES also must be approved. Operators in responsible charge of public water systems must be licensed by the DHES.

Statute: 75-6-101, MCA, *et seq.*

Rules: ARM 16.20.401-405, 1601

Contact: Department of Health and Environmental Sciences
Water Quality Bureau

2. *Application Requirements*

a) Prior to commencing construction, alteration or extension of a public water supply, the applicant must submit an engineering report along with the necessary plans and specifications to the DHES for review and written approval.

b) The engineering report, plans and specifications for a public water supply must be prepared and designed by a professional engineer according to specific engineering criteria.

c) The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public water supply.

d) If the applicant has not commenced construction, alteration or extension of the public water supply within 2 years after approval, he must resubmit all requirements in a), b), and c) above.

e) The proposed public water supply must comply with the Montana Water Quality Act (75-5-101 *et seq.*). (See WATER POLLUTION, P. 17.).

f) Any person who wishes to drill a well in the state in order to furnish water for public consumption or use must register with the DHES.

g) Within 90 days after the construction, alteration or extension of the public water supply, the project engineer must certify to the DHES that the required work was completed according to plans and specifications approved by it.

Rules: ARM 16.20.401, 405

SEWER SYSTEMS

1. *Applicability*

Approval from the Water Quality Bureau, DHES, is required to construct, alter or extend a public sewer system serving 10 or more families or 25 or more persons for at least 60 days out of the calendar year. Operators in charge of public sewer systems must be licensed by the DHES.

Statute: 75-6-101,MCA, *et seq.*

Rules: ARM 16.20.401, 402

Contact: Department of Health and Environmental Sciences
Water Quality Bureau

Board of Water and Wastewater Operators

2. *Application Requirements*

a) Prior to commencing construction, alteration or extension of a public sewer system, the applicant must submit an engineering report along with the necessary plans and specifications to the DHES for review and written approval.

b) The engineering report, plans and specifications for a public sewer system must be prepared and designed by a professional engineer according to specific engineering criteria.

c) The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public sewer system.

d) If the applicant has not commenced construction, alteration or extension of the public sewer system within 2 years after approval, he must resubmit all requirements in a), b) and c) above.

e) The proposed public sewer system must comply with the Montana Water Quality Act (75-5-101 *et seq.*).

f) Within 90 days after the construction, alteration or extension of the public sewer system, the project engineer must certify to the DHES that the required work was completed according to plans and specifications approved by the DHES.

Rule: ARM 16.20.401

WATER POLLUTION: DISCHARGE PERMITS

1. *Applicability*

A permit from the DHES is required to construct, modify or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial or other wastes into state surface or groundwaters.

The DHES may authorize short-term exemptions from certain water quality standards for necessary short-term construction or hydraulic projects which may have unavoidable short-term water quality impacts.

Plans and specifications for tailings ponds, leaching pads and holding facilities must be submitted to the DHES for review and approval at least 180 days before commencement of operations.

Statute: Montana Water Quality Act, 75-5-101 MCA, *et seq.*

Rules: ARM 16.20.633
16.20.901 *et seq.*
16.20.1001 *et seq.*

Contact: Department of Health and Environmental Sciences
Water Quality Bureau

2. *Application Requirements*

The applicant for a water pollution discharge permit must file a Montana Pollutant Discharge Elimination System (MPDES) permit or a Montana Groundwater Pollution Control System (MGWPCS) permit application no less than 180 days prior to the operation of a point source.

Application information must include plans and specifications, site plans, descriptions of adjacent state waters, soil conditions, groundwater characteristics, process and waste flow diagrams and volume and nature of projected discharges. Application for short-term exemption from water quality standards must be made on forms provided by the DHES.

Statute: 75-5-401, MCA

Rule: ARM 16.20.904 and 16.20.1013

3. *Procedure for Obtaining Permit*

a) Time Requirements

The DHES will not process a pollutant discharge permit until the application is complete.

b) Public Notification, Hearing, Appeal of Denial

(1) Upon receipt of the permit application, the DHES must make a tentative determination with respect to issuance or denial of a permit. The DHES is then required to issue a public notice to inform interested persons of the proposed discharge and of the tentative determination.

(2) At least 30 days are provided for written comments from the public regarding the application.

(3) The applicant, any affected agency, state or county, the regional administrator of the Environmental Protection Agency or any interested person or agency may request a public hearing on the application. The hearing must be held in the geographical area of the proposed discharge.

(4) If the DHES denies the discharge permit, the applicant may appeal the decision to the Board of Health and Environmental Sciences. The hearing must be held within 30 days of the receipt of the written request.

c) All permits are issued for a fixed term, not to exceed 5 years for surface water discharge permits, and 10 years for groundwater discharge permits.

Statute: 75-5-403, MCA

Rules: ARM 16.20.904-907 and 16.20.1014-1020

4. *General Permits*

Certain specified categories of discharge may be authorized by a summary procedure under a general permit authorization.
Rule: ARM 16.20.914

5. *Criteria*

All discharges of pollutants into state waters authorized by an MPDES or MGWPCS permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits, create floating debris, produce odors, create toxic concentrations harmful to human, animal, plant life, or create conditions capable of producing undesirable aquatic life.

Rules: ARM 16.20.633, 907, 1002, 1003, 1015

6. *Nondegradation*

If effluent limitations or other conditions are imposed on a discharge permit in order to maintain water quality at levels better than the applicable water quality standards, the permittee may, within 30 days, petition the Board of Health for an exemption from such nondegradation requirements. The Board may require an EIS, and its decision must be made following a public hearing.

Statute: 75-5-303, MCA

Rules: ARM 16.20.701 *et seq.*

WATER POLLUTION: FEDERAL FACILITIES

1. *Applicability*

Federal permitting authority is involved for facilities, for projects requiring federal permits or licenses for activities on Indian reservations. Minimum discharge limits are established by the Environmental Protection Agency, and these apply to all discharges except where greater treatment is needed to meet water quality stream standards. In accordance with a 1981 delegation agreement transferring such authority to the state, all other federal facilities which involve a discharge of waste to surface waters must comply with the preceeding section on discharge permits.

Statute: Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*

Contact: Environmental Protection Agency
Montana Office, Helena

SURFACE WATER APPROPRIATIONS - DIVERSIONS

1. *Applicability*

State waters may be appropriated only for 'beneficial uses' such as agriculture, domestic use, fish and wildlife, mining, industrial activity, municipal supply, power and recreation. A permit is required from the DNRC to appropriate surface water for beneficial uses. A person who intends to appropriate water for certain uses by means of a reservoir also must have a permit. Application forms are available from the DNRC or the county clerk and recorder. After July 1, 1985, use of water outside the state will require an approval by the Legislature where the diversion occurs in the state (section 85-1-121, MCA). Changes in the use of appropriated water or transfer of an appropriation right from the land to which it is appurtenant must be approved by the DNRC. Reservations of water to state political subdivisions or agencies, or the United States or agencies, may be approved by the Board of Natural Resources and Conservation. A permit is not required for a pit to be used for watering livestock if the pit is less than 15 acre-feet, the impoundment is to be constructed on and will be accessible to a parcel of land that is owned or under the control of the applicant and that is 40 acres or larger, and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream.

Statute: 85-2-101 through 418, MCA

Rules: ARM 36.12.101-105

Contact: County Clerk and Recorder

Department of Natural Resources and Conservation
Water Rights Bureau

2. *Application Requirements*

Application for a permit to appropriate water must be made on forms supplied by the DNRC. A defective application does not lose its filing priority if it is corrected and refiled within 30 days or such further time as the DNRC may allow, up to 3 months. An application not corrected within 3 months is terminated.

Statute: 85-2-301, MCA, *et seq.*

Rule: ARM 36.12.102

3. *Procedure for Obtaining Permit*

a) Time Requirements, Hearing

(1) The DNRC must prepare a notice on the application for a permit and publish it in an area newspaper once per week for 2 consecutive weeks.

(2) Interested persons may file written objections to the permit application within a time established by the DNRC, not less than 15 nor more than 60 days after the last date of publication.

(3) If the DNRC determines that objections to an application are valid, it must hold a public hearing within 60 days from the date set for filing objections.

(4) The DNRC must issue a decision on the permit within 120 days after the final date of publication of the notice if no objections have been received, and within 180 days if a hearing is held or objections have been received. These deadlines may be extended up to 60 days if an EIS is required. If no objection to the application is filed but the DNRC feels that the application should be approved in a modified form or denied, it must serve a statement of opinion upon the applicant, along with notice that the applicant may obtain a hearing by filing a request within 30 days.

(5) The DNRC may issue a permit for less than the amount of water requested, but in no case may it issue one for more water. It also may limit the time for commencement of the appropriation work, completion of construction and actual application of the water to the proposed beneficial use.

(6) Water rights are provisional until all rights in the source of supply have been adjudicated in state water court. See the DNRC or local clerk of court for adjudication procedures.

b) Appeal of Decision

The applicant or any objector may appeal the DNRC's decision on an application for a permit for water appropriation to District Court within 30 days after notice of the decision.

Statute: 85-2-307 through 312, MCA

4. *Fees*

A fee schedule, based on the volume of water appropriated, is established by rule. Fees for applications for change of use or transfer of right from appurtenant land are set by rule.

Statute: 85-2-113, MCA

Rule: ARM 36.12.103

5. *Criteria*

The DNRC bases its decision for issuance of a permit on the following criteria: existence of unappropriated waters in the source of supply; the water rights of previous appropriators will not be adversely affected; the proposed means of diversion or construction are adequate; the proposed use of water is a beneficial one, and it will not interfere unreasonably with other planned water uses or developments in the area (85-2-311, MCA).

For appropriations of 10,000 or more acre-feet per year or 15 or more cubic feet per second, the DNRC must affirmatively find that the criteria are met and must consider additional factors such as economic and environmental impacts. Consumptive uses of 10,000 or more acre-feet per year or 15 or more cubic feet per second must be approved by the legislature. (Note: The provisions of the last two sentences are due to be repealed effective July 1,1985.)

The DNRC issues permits subject to terms and conditions it considers necessary to protect the rights of other appropriators. It may issue temporary or seasonal permits (section 85-2-312, MCA).

6. *Highly Appropriated Basins*

The legislature by law or DNRC by rule (on petition of affected water users) may designate highly appropriated basins within which water rights applications may be rejected or subjected to special conditions.
Statute: 85-2-319 MCA

7. *Reservations*

The state or any political subdivision or the federal government may apply to the Board of Natural Resources and Conservation to reserve waters for existing or future benefical uses of water. Applications are processed and investigated by the DNRC. The Board must make a finding regarding the purpose and need for the reservation, the amount of water necessary and that it is in the public interest before Board approval can be granted (82-2-316, MCA).

WATER WELLS - GROUNDWATER APPROPRIATIONS

1. *Applicability*

Outside of a controlled groundwater area, a permit is not required to appropriate water by means of a well or developed spring with a maximum appropriation of less than 100 gallons per minute. However, notice of completion of the well must be filed with the DNRC within 60 days. Defective notices must be resubmitted within a time specified by the DNRC in order to retain priority. For larger wells, or inside a controlled groundwater area, a permit for appropriation of groundwater must be obtained from the DNRC. See SURFACE WATER APPROPRIATIONS for procedures.

All wells must be drilled by a contractor licensed by the Board of Water Well Contractors or by a person who has obtained a permit from the Board to drill a well on his/her own property for his/her own private use. See PUBLIC WATER SUPPLY.
Statutes: 85-2-306, 501 *et seq.*, and 37-43-101 MCA, *et seq.*

Contact: County Clerk and Recorder

Department of Natural Resouces and Conservation
Water Rights Bureau

Board of Water Well Contractors

2. *Application Requirements*

a) Within 60 days after any well is completed, the driller must file with the DNRC a log report on a form provided by the DNRC.

b) Any person who wishes to engage in the business of drilling or constructing underground water wells must file an application for a contractor's license with the Department of Commerce (DOC). The license will be issued if the Board of Water Well Contractors determines that the applicant is qualified to conduct water well construction operations.

Statute: 85-2-516 and 37-43-303, MCA

3. *Fees*

a) The application fee for a water well contractor's license is $175.

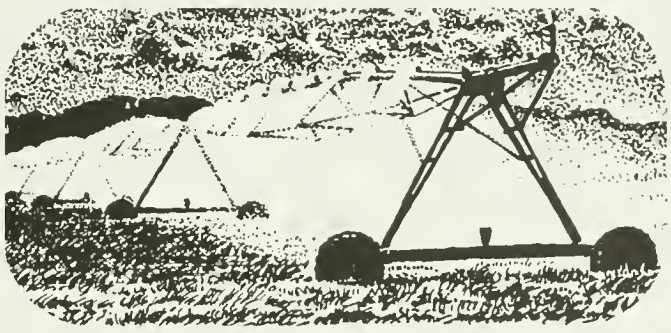
b) The fee for renewal of such license, which is valid from July 1 to June 30, is $90.

Statute: 37-43-303,307, MCA

Rules: ARM 8.66.101 *et seq.*

c) There is a flat fee set by rule for notice of completion of a well or developed spring with an appropriation of less than 100 gallons per minute.

Rule: ARM 36.12.103.



DAMS AND RESERVOIRS

1. *Applicability*

Construction on navigable waters within the United States requires licensing by the Federal Energy Regulatory Commission (FERC) and the Army Corps of Engineers. Upon complaint, the DNRC must inspect and approve dams and reservoirs on state waters.

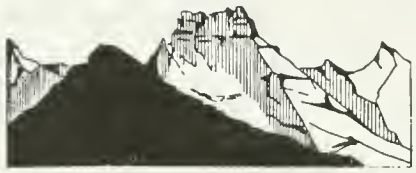
Statutes: Federal Power Act, 16 USC 791a *et seq.*
River and Harbors Act, 33 USC 401 *et seq.*
85-15-101, MCA, *et seq.*

Contact: Department of Natural Resources and Conservation
Water Resources Division
Engineering Bureau

Army Corps of Engineers
District Engineer

Federal Energy Regulatory Commission

SPECIFIC CATEGORIES: In addition to the statutes and rules listed above that may apply to all types of developments and activities, if the activity falls into one or more of the following categories, additional rules may apply.



AGRICULTURE

ANIMAL CONFINEMENT FACILITIES

1. *Applicability*

A permit is required from the DHES for any animal confinement facility which could discharge livestock waste into state waters following a 10 year, 24-hour rainfall event. See WATER POLLUTION: DISCHARGE PERMITS, P. 17.

Rule: ARM 16.20.901 *et seq.*

Contact: Department of Health and Environmental Sciences
Water Quality Bureau

CROPLAND LEASES

1. *Applicability*

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a "crop share rental value" of not less than one-fourth of the annual crop or the usual "landlord's share", whichever is greater.

Statute: 77-6-501, MCA, *et seq.*

Contact: Department of State Lands
Surface Leasing Bureau, Lands Division

2. *Procedures*

a) Leases go to the highest bidder, unless the Board determines that not to be in the state's best interest.

b) Present leaseholders have a preference right over others seeking to lease the same land. Such present holders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the Board if they feel the bid to be excessive. Present holders may exercise their preference right only if they have actually used the land themselves and have not abused any conditions of their lease.

c) Lease terms are for 5 or 10 years.

FERTILIZER REGISTRATION

1. *Applicability*

Fertilizers, except unmanipulated animal and vegetable manures, must be registered with the Department of Agriculture (DOA) before distribution in Montana. An annual license, which expires on December 31 of each year, is required from the DOA to sell or distribute fertilizer.

Statute: 80-10-201, 202, MCA

Rules: ARM 4.12.601 *et seq.*

Contact: Department of Agriculture
Plant Industry Division

2. *Application Requirements*

The applicant for a fertilizer distribution license or fertilizer registration must complete forms provided by the DOA.

The application for fertilizer registration must include the brand, grade and guaranteed analysis of the fertilizer; the source of each plant food element, name and address of applicant; a copy or facsimile of the label and promotional material, and when requested, duplicated data verifying claims for effectiveness.

Statute: 80-10-201, 202, MCA

Rules: ARM 4.12.604

3. *Fees*

a) The fee for fertilizer registration is $10 per grade for each fertilizer and for each soil amendment, with the exception of specialty fertilizers in packages of 10 pounds or less, which must be registered at a fee of $25 each.

b) The fee for a fertilizer distribution license is $50.

Statute: 80-10-201, 202, MCA

GRAZING

1. *Grazing Districts*

a) Preferences and permits for grazing within a grass conservation and grazing district must be obtained from the district supervisors.

Statute: 76-13-310, MCA

Contact: Grazing District Supervisors

b) Any person who wishes to obtain grazing preferences (i.e., the right to obtain a grazing permit from the district) must make an application within 1 year after organization of the district.

c) Transfer of preferences may not be allowed without the written consent of the owner of the property from which the transfer is to be made. A transfer is not effective until approved by the DNRC.

d) Prior to the transfer, a public hearing must be held before the Board of Directors of the District.

Statute: 76-14-401,MCA, *et seq.*

2. *State Leases*

a) The Department of State Lands issues leases, through competitive bidding, for grazing on state lands.

Statutes: 77-6-101 *et seq.*, 77-6-201,MCA, *et seq.*

Rules: ARM 26.3.101 *et seq.*

Contact: Department of State Lands
Centralized Services Division

b) Leasing Procedures

(1) When the DSL receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding takes place at the county courthouse of the involved county.

(2) A present lease holder has a preferential right to meet the highest bid unless the Board determines such bid to be excessive. Their preferential right may only be exercised if the present holder actually used the land himself.

(3) A person bidding for the lease of state lands must deposit with the DSL a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to $1 per acre for each acre of agricultural land.

(4) The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.

3. *Federal Leases*

The Bureau of Land Management and the Forest Service issue grazing leases for federal land.

Statutes: Taylor Grazing Act, 43 USC 315 *et seq.*, 43 USC 1171

Rules: ARM 43 C.F.R. 4100

Contact: Bureau of Land Management

U.S. Forest Service
Forest Supervisor

PESTICIDES

1. *Applicability*

All pesticides distributed in Montana must be registered annually with the Department of Agriculture. The Department of Health and Environmental Sciences and Department of Fish, Wildlife and Parks also review registration applications. Commercial applicators must be licensed annually by the Department of Agriculture (expiration is December 31 following date of issuance), and farm applicators must obtain special use permits for restricted pesticides. Pesticides dealers also must be licensed annually by the Department of Agriculture (on or before May 1 of the calendar year). Aerial applicators must be licensed by the Department of Commerce and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators.

Statute: Montana Pesticides Act, 80-8-101,MCA, *et seq.*

Rules: ARM Title 4, Chapter 10

Contact: Department of Agriculture
Environmental Management Division

Department of Commerce
Aeronautics Division

2. *Application Requirements*

a) The applicant for pesticide registration must file a statement with the DOA including name and address, a complete copy of the pesticide label, trade and chemical name of the pesticide and any required tests. The Department of Health and Environmental Sciences and Fish, Wildlife and Parks must approve or disapprove the application within 10 days after receipt of the application. The state must accept for registration all federally registered products.

b) The applicant for a pesticide applicator's license must file annually with the Department of Agriculture on or before March 1 of each year. The DOA's application and liability forms must be completed. A pesticide applicator's and operator's examination also is required of each new applicant for a license.

c) The applicant for a dealer's license must pass an examination administered by the DOA.

d) Farm applicators qualify for a special use permit by either passing a graded written examination or attending a training course approved by the DOA and taking an ungraded written examination.

Statute: 80-8-201, 203, 204, 206, 208, 209, MCA

Rules: ARM 4.10.201, 203-205

3. *Procedure for Obtaining Registration*

a) The Departments of Health and Environmental Sciences, Agriculture, and Fish, Wildlife and Parks must review all applications for registration of an experimental use permit or a registration for special local needs. The Departments utilize the same requirements and standards for reviewing registrations as established by the Federal Insecticide, Fungicide and Rodenticide Act.

b) The Departments of Health and Environmental Sciences and Fish, Wildlife and Parks must approve or disapprove the application within 10 days after receipt.

c) If all three departments are in agreement with the proposed registration, the Department of Agriculture must issue the registration.

Statute: 80-8-201(8), MCA

4. *Fees*

a) The fee for each registered pesticide is $50.

b) The fee for a pesticide applicator's license is $35 annually.

c) The application for a dealer's license must be accompanied by a fee of $35. Dealers applying for renewal of a license must do so on or before March 1 of the calendar year. Any dealer applying for renewal of license after May 1 is assessed a $25 late license fee.

d) The fee for a special local need or experimental use permit registration is $50.

e) The annual fee for a government applicator or dealer's license is $50 each for the first four employees of the government agency, and $15 for each additional employee applicator.

Statute: 80-8-201, 207, MCA

5. *Criteria*

a) If it does not appear to the Department of Agriculture that the pesticide warrants the proposed claims for it or if the article and its labeling do not comply with the Montana Pesticides Act, the DOA must notify the applicant and allow them an opportunity to make the necessary corrections.

b) If the applicant does not make the corrections, the DOA may refuse to register the pesticide.

c) The DOA's decision may be appealed.

Statute: 80-8-201(6), MCA

SOIL AND WATER CONSERVATION

1. *Applicability*

If agricultural land is located within a conservation district that has adopted land use regulations, such regulations may require that prior notification of major agricultural land use practices be given to conservation district supervisors. The supervisors may compel compliance with regulations and practices designed to prevent soil erosion and preserve water resources.

Statute: 76-15-701 MCA, *et seq.*

Contact: Soil and Water Conservation District Supervisors

CARRIERS - TRANSPORTATION

A carrier includes everyone who offers to the public to carry or transport persons, property or messages, with the exception of telegraphic or telephonic messages.

Statute: 69-11-101, MCA

AIR CARRIERS

1. *Applicability*

Air carriers must obtain a certificate of public convenience and necessity from the Board of Aeronautics. Aircraft kept in the state must be registered with the Department of Commerce. Registration must be renewed annually on or before June 1 each year.

Statute: 67-3-201, 422, MCA

Rules: ARM 8.106.301 *et seq.*

2. *Fees*

a) The aircraft registration fee is $10.

b) The application fee for a certificate of public convenience and necessity is $150.

Statute: 67-3-201(2), 422(2), MCA

3. *Criteria*

In awarding certificates of public convenience and necessity, the Board must consider the business experience of the particular air carrier in the field of air operations, its financial stability, insurance coverage, type of aircraft employed, proposed routes and minimum schedules, whether the carrier could economically give adequate service to the communities involved, the need for service and other factors that may affect the public interest.

Statute: 67-3-422(3), MCA

Rules: ARM 8.107.301 *et seq.*

AIRPORT LICENSING

1. *Applicability*

Airports and other air navigation facilities must be licensed annually by the DOC. The DOC also issues certificates of site approval.

Statute: 67-3-301, MCA

Contact: Department of Commerce
Aeronautics Division

2. *Hearing*

The applicant or an affected municipality may demand a hearing on the proposed license, within 15 days after issuance of the order to grant or deny the license. The DOC may also choose to hold a hearing before issuing an order. Notice of the hearing must be published at least twice, the first being at least 15 days prior to the hearing, in a local newspaper.

Statute: 67-3-302, MCA

3. *Criteria*

In determining whether to issue a certificate of approval or license to an airport, the DOC must take into consideration its proposed location, size and layout; the relationship of the proposed airport or restricted landing area to any comprehensive plans for statewide or nationwide development; whether there are safe areas available for expansion purposes; whether the adjacent area is free from obstructions; and the nature of the terrain; the nature of the uses to which the proposed airport will be put, and the possibilities for future development.

Statute: 67-3-303, MCA

FERRIES

1. *Applicability*

Ferries between two counties must be approved by the board of county commissioners.

Statute: 7-14-2802, MCA

Contact: Board of County Commissioners

2. *Application Requirements*

Application to operate a ferry between two counties must be made to the board of county commissioners of the county situated on the left bank of the affected river, creek or slough. The application must contain a description of the proposed landings, names of the owners of the landings and, at least 10 days prior to the date of application, notice to the landowners not participating in the application that the application will be served. Notice of the proposed ferry must be published by the applicant in local newspapers and posted in three places for 4 consecutive weeks. A hearing is required after notice. The owner of the land on either bank of the waters to be crossed is entitled to preference in procuring authority to construct a ferry, with the owner on the left bank descending having preference over the owner on the right bank.

Statute: 7-14-2821 through 2824, MCA

MOTOR CARRIERS

1. *Applicability*

Commercial carriers are divided into four categories and must receive a certificate of public convenience and necessity from the Public Service Commission. A certificate from the commission is also required for the transportation of livestock by motor vehicles on public highways.

2. *Classes of Carriers*

The four classes of commercial carriers are as follows:

a) Class A includes all motor carriers operating between fixed locations or over a regular route and under regular rates or charges;

b) Class B includes all motor carriers operating under station-to-station rates and not between fixed locations;

c) Class C includes all motor vehicles for distributing, delivering or collecting wares, merchandise or commodities or transporting persons, where the remuneration is fixed and the transportation service furnished under a contract, charter, agreement or undertaking, and

d) Class D includes all motor carriers used to transport, pick up or dispose ashes, trash, waste refuse, rubbish, garbage or organic/inorganic matter.

e) Carpools are exempt from regulation under this chapter. Also exempt are transportation systems operated by a municipality or transportation district.

Statute: 7-14-201, MCA, *et seq.*
7-14-4401, MCA, *et seq.*
69-12-102, 301, 405, MCA

Rules: ARM 38.3.101 *et seq.*

Contact: Department of Public Service Regulation
Transportation Division
Municipal Transportation District

3. *Procedure for Obtaining License*

a) A hearing is required, if requested, on the application for a motor carrier's license within 60 days after receipt of the request. Notice of the hearing must be served on other parties at least 10 days prior to the hearing.

b) The commission must decide on the license within 180 days of the filing of the application. The applicant may request an extension.

Statute: 69-12-322, 323, MCA

4. *Criteria*

The commission must issue the license if it finds from the evidence that public convenience and necessity require the authorization of the service.

Statute: 69-12-323, MCA

5. *Fees*

See statute for fees.

RAIL CARRIERS

1. *Applicability*

The Public Service Commission has jurisdiction over intrastate rail rates and charges as well as intrastate station closures, facility abandonments, dualizations and employee safety. Any railroad corporation chartered under the laws of the United States may extend, construct, maintain and operate its railroad into and through Montana to any place within the state and may build branches from any point on its rail lines.

Statute: 69-14-101,MCA, *et seq.*

Rules: ARM 38.4.101 *et seq.*

Contact: Department of Public Service Regulation
Transportation Division

COMMERCIAL - INDUSTRIAL - ENERGY

AIR POLLUTION PERMITS: STATE

1. *Applicability*

A permit from the Department of Health and Environmental Sciences is required for the construction, installation and operation of equipment or facilities that may directly or indirectly cause or contribute to air pollution. Exceptions include residential heating units, food service establishments, ventilating systems, motor vehicles, trains, aircraft, road construction (except stationary sources) and other sources which emit less than specified amounts. The city or county may administer its own air pollution permit program in lieu of the Department's permit program.

Statute: Montana Clean Air Act, 75-2-211, 212, 301, MCA

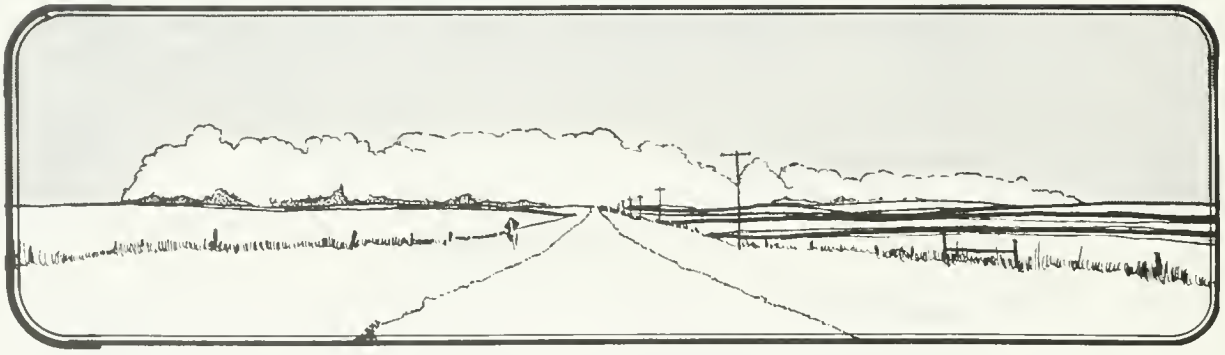
Rules: ARM 16.8.1101 *et seq.* and ARM 16.8.921 *et seq.*

Contact: Department of Health and Environmental Sciences
Air Quality Bureau

Local Board of Health

2. *Application Requirements*

An applicant for an air pollution permit must file with the DHES the appropriate permit application on forms supplied by the DHES not later than 180 days before construction nor later than 120 days before installation of the facility.
Statute: 75-2-211, MCA
Rule: ARM 16.8.1105



3. *Procedure for Obtaining Permit*

a) The application for an air pollution permit is not considered to be filed until all filing requirements are completed. However, if the DHES fails to notify the applicant within 30 days that an application is incomplete, the application is then considered complete.

b) The applicant must notify the public by means of legal publication in a newspaper of general circulation in the area of the proposed facility. The notice must be made not sooner than 10 days prior to submittal of the application nor later than 10 days after submittal. The DHES will supply the form of the notice.

c) Within 40 days after receipt of the complete and filed application for a permit, the DHES must make a preliminary determination whether the permit should be issued, issued with conditions or denied.

d) Notwithstanding the opportunity for public comment (15 days), a final decision must be made within 60 days after a completed and filed application is submitted to the DHES.

e) If an application for a permit requires the compilation of an environmental impact statement, the public review procedure for Environmental Impact Statements will apply, and the DHES has 180 days from receipt of the completed application in which to make its final decision. (See MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS, P. 88). If an agency other than the DHES is the lead agency in the preparation of an EIS, the DHES's decision must be made within 30 days after issuance of the final EIS.

f) If the DHES denies the application for an air pollution permit, the applicant may appeal the decision to the Board of Health and Environmental Sciences.

4. *Prevention of Significant Deterioration (PSD)*

a) When a major new source of air pollution is proposed in an area whose ambient air quality is better than the applicable standards, a more stringent review procedure may apply. Such review may include one year of preapplication baseline data, control technology review, air quality impact modeling, etc.

b) The DHES must: (1) advertise in a newspaper of general circulation in the air quality control region affected by the proposed source that an application has been received, the DHES's preliminary determination, the degree of increment consumption expected from the source, how written comments may be submitted and how the DHES's final determination may be appealed to the Board and (2) forward copies of the notice of public comment to the applicant, Region VIII Administrator of the Environmental Protection Agency (EPA) and to area officials and agencies affected by the proposed construction.

Statute: 75-2-211, 401, MCA

Rules: ARM 16.8.921 *et seq.*

5. *Fees*

The DHES may assess a fee from the applicant to implement and enforce the terms and conditions of the air pollution permit.

Statute: 75-2-211(2)(b), MCA

6. *Variances*

A person may apply to the Board of Health and Environmental Sciences for an exemption from applicable rules governing air emissions. Such a variance may be issued if the Board finds there will be no adverse impact on public health or safety, and that compliance with the rules would be an undue hardship on the applicant. The length of the variance is at the Board's discretion and the variance may be renewed. An applicant for a variance must submit a sum of 2% of the cost of equipment needed to bring the facility into compliance with the rule from which the exemption is sought, but not less than $500 nor more than $80,000.

Statute: 75-2-212, MCA

7. *Criteria*

An air quality permit to construct or operate a new or altered air pollution source cannot be issued unless the source is able to comply with the ambient air quality standards, emission limitations and other rules adopted under the Montana Clean Air Act, and the applicable regulations and requirements of the Federal Clean Air Act.

Rule: ARM 16.8.1109

AIR POLLUTION PERMITS: FEDERAL

No federal permits are required. The state has the delegation for all air-permit related facilities, including federal facilities.

Contact: Department of Health and Environmental Sciences
Air Quality Bureau

Environmental Protection Agency
Montana Office, Helena

GEOTHERMAL DEVELOPMENT

1. *General*

Development of geothermal resources will generally require the appropriation of water rights (See GROUNDWATER APPROPRIATIONS, P. 22) and may require a certificate of public need and environmental compatibility (See MAJOR FACILITY SITING ACT, P. 37.) For general information, contact the Department of Natural Resources and Conservation, Energy Division, Renewable Energy Bureau.

2. *Geothermal Leases on State Lands*

a) Applicability

The Board of Land Commissioners may lease state-owned lands, including the beds of navigable streams and the beds of navigable bodies of water, for the purposes of prospecting, exploration, well construction or production of geothermal resources.

Statute: 77-4-101, MCA, *et seq.*

Rule: ARM 26.3.401 *et seq.*

Contact: Department of State Lands
Lands Division

b) Procedure for Obtaining Lease

(1) A person wishing to lease state lands for geothermal operations must submit an application form supplied by the Department of State Lands. Water rights may also be required. (See SURFACE WATER APPROPRIATIONS, P. 20; GROUNDWATER APPROPRIATIONS, P. 22.)

(2) Sale of geothermal leases occurs after receipt of a sufficient number of applications to warrant a sale.

(3) Notice of sale must be published in a geothermal trade journal or in two newspapers of general circulation in Lewis and Clark County. Notice must be published for 4 weeks preceeding the sale date. Sale may be by competitive bid.

(4) A bond may be required to protect the state's interest in the resource.

(5) The term of a geothermal lease is 10 years. Compensation must be paid to surface lessees, if any.

Rule: ARM 26.3.405

3. *Fee/Rental*

The required fee for a geothermal lease application is $10. Rental and royalty charges are determined by the Board.

Rules: ARM 26.3.405, 408

HYDROELECTRIC SITES ON STATE LANDS AND NAVIGABLE WATERS

1. *Applicability*

The Board of Land Commissioners may grant leases for construction and operation of hydroelectric power sites on state lands. Hydroelectric plants on navigable waters of the United States must be licensed by the Federal Energy Regulatory Commission. Preference is given to municipalities or other government entities in leasing sites.

Statutes: 77-4-201 through 211, MCA
Federal Power Act, 16 USC 791a *et seq.*

Contact: Department of State Lands
Lands Division

Federal Energy Regulatory Commission

2. *Application Requirements/State Lands*

The Board of Land Commissioners may establish any reasonable restrictions and regulations in the lease or license to protect the state and its people. A preliminary examination of the proposed site's value for development is required. If the investigation requires further proceedings, the Board must publish a notice regarding the proposed lease or license for 6 weeks in two state newspapers, one of which must be from the affected area. The Board, at its meeting on the proposed site, may consider the original application along with any other filed applications. The Board has the power to reject any or all bids. Acceptance depends on which offer is considered to be most advantageous to the state. Bid preferences are given to municipalities. The term of the lease cannot exceed 50 years.

Statute: 77-44-203, 204, 205, 206, 207, 209, MCA

3. *Hydroelectric Generation at State Water Projects*

a) The Board of Natural Resources and Conservation may lease sites at state water projects which it determines to be feasible for energy generation. When the Board advertises for lease applications, public utilities, electric

cooperatives and qualifying Montana corporations have 180 days to submit applications. The Board will hold a hearing to examine all applications, and must decide whether to accept or reject applications within 180 days after the close of the application period.

b) The lessee must provide an adequate royalty payment, be capable of carrying out the project, provide efficient and reliable service, and intend to proceed with the development without unnecessary delay.

c) Any necessary federal licenses or permits must be held by the DNRC.

d) The duration of the lease may not exceed the term of such federal permits, and in no case may exceed 55 years.

Statute: Title 85, Chapter 1, MCA

Contact: Department of Natural Resources and Conservation

INDOOR EMISSIONS - OCCUPATIONAL NOISE - RADIATION

1. *Applicability*

The Occupational Health Bureau, DHES, neither requires nor issues permits for the operation of machinery that may emit pollutants into an enclosed work area. The DHES only has the authority to regulate occupational exposure to noise in workplaces that are under the jurisdiction of state and local governments. The Occupational Safety and Health Administration (OSHA) regulates noise in all privately owned workplaces.

The DHES does not license any users of radioactive materials. The U.S. Nuclear Regulatory Commission licenses users of byproduct materials, source materials and special nuclear materials in Montana. The DHES has statutory authority to license users of naturally occurring and electronically produced radionuclides but funding is inadequate to operate a licensing program.

Statutes: 50-70-112 and 75-3-202, MCA

Rules: ARM 16.40.301-324: Radiation
16.42.101: Occupational Noise
16.42.102: Occupational Air Contamination

Contact: Department of Health and Environmental Sciences
Occupational Health Bureau

2. *Application Requirements for Licenses - Radioactive Materials*

A license to handle radioactive waste in Montana would be processed by the U.S. Nuclear Regulatory Commission.

Rules: ARM 16.40.308 *et seq.*

MAJOR FACILITY SITING

1. *Applicability*

Certificates of Public Need and Environmental Compatibility may be required from the Board of Natural Resources and Conservation for major facilities that generate or transmit electricity, produce gas from coal or liquid hydrocarbon products or transmit them by pipeline, enrich uranium minerals, utilize or convert coal or utilize geothermal resources. Associated facilities such as transportation links, aqueducts, dams, transmission substations and other facilities associated with the production or delivery of energy are included. Crude oil and natural gas refineries and facilities for producing, gathering, transporting and distributing crude oil and natural gas, coal and uranium mines and federal facilities are excluded. Federally-owned or controlled facilities must satisfy the substantive criteria of the Siting Act. Certification is also required from the Department of Health and Environmental Sciences to ensure that the facility will not violate air and water quality standards or other laws administered by the DHES.

Statute: Major Facility Siting Act, 75-20-101,MCA, *et seq.*

Contact: Department of Natural Resources
and Conservation
Facility Siting Division

Department of Health and Environmental Sciences
Air Quality Bureau
Water Quality Bureau

2. *Application Requirements*

An applicant for a certificate under the Major Facility Siting Act must file a joint application with DNRC and DHES. Statements concerning the facility's need and location, alternate sites, baseline data and so forth, as well as proof of service of the application on the affected local, state and federal agencies, must be included in the filed application. (Affected state agencies include the Environmental Quality Council, Departments of Health and Environmental Sciences, Highways, Commerce, Fish, Wildlife and Parks, State Lands and Public Service Regulation.) The applicant must submit an original and 19 copies of the application to DNRC.

Statute: 75-20-211, MCA

Rules: ARM 36.7.201-202

3. *Procedure for Obtaining Certificate*

a) Time Requirements

(1) Each person contemplating construction of a major facility within the next ten years must submit an annual long-range plan to DNRC.

(2) A potential applicant for a certificate may file a notice of intent to file an application at least 12 months prior to the actual filing of an application. The notice of intent must specify the type and size of the facility, its preferred location, a description of

reasonable alternative locations and such information as the Board or DNRC requires. An applicant complying with the notice of intent is entitled to a 5 percent reduction of the filing fee required under 75-20-215, MCA.

(3) DNRC and DHES must notify the applicant within 90 days that the application is either complete or incomplete. If the application is incomplete, the applicant may correct it for resubmission. Both departments then have 30 days to advise the applicant that the application is complete and accepted.

(4) DHES, within 1 year of the date of acceptance of a complete application, and, if a hearing is required, the board or DHES within an additional 6 months, must issue a decision on certificates, permits, etc., required under the laws administered by the Board of Health and DHES. DHES and the Board determine compliance with all standards, permit requirements and implementation plans under their jurisdiction. Those determinations are conclusive with respect to such requirements.

(5) Within 22 months following acceptance of an application, DNRC must report its findings and recommendations to the Board of Natural Resources and Conservation.

(6) Reports from state agencies listed in *Application Requirements* (above) also must report to DNRC on the impact of the proposed facility.

(7) Hearings by the BNRC must take place within 120 days of receipt of DNRC's findings, after notification is published in local newspapers. The Board must appoint a hearings officer, if any, within 20 days after DNRC's report has been filed. At the request of the applicant, the Air and Water Quality Bureaus of DHES must hold any required permit hearings in conjunction with the Board's certification hearing. If the Board of Health and BNRC hold separate hearings on the same certificate, the Boards must agree on the appointment of the hearing examiner to preside at both hearings. A pre-hearing conference, which must be held following notice within 60 days after DNRC's report has been filed with the Board, is to be organized and supervised by the hearing examiner, who must require the parties to submit, in writing, all direct testimony, studies, investigations, reports or other exhibits for consideration by the Board.

(8) The hearing examiner must file a report and recommendations within 60 days after conclusion of the hearing, or in the case of a joint hearing, within 90 days.

(9) The Board of Natural Resources must issue its decision to grant or deny the application within 60 days after submission of the recommended decision by the hearing examiner.

(10) The Board must waive the requirements for alternative site studies and advance notice when a facility is proposed for construction in a county that has experienced severe unemployment problems because of plant closure.

b) Appeal of Denial

The decisions by the BNRC and the Board or DHES can be appealed to state district court.

Statute: 75-20-216 through 220, 406, MCA

4. *Fees*

The applicant for a certificate under the Major Facility Siting Act is required to deposit a filing fee based on the estimated cost of the project in an earmarked revenue fund for use by DNRC to administer the Act. A fee schedule is listed in the statute.

Statute: 75-20-215, MCA

Rule: ARM 36.7.206

5. *Criteria*

The BNRC must issue an opinion and render a decision, either granting or denying the application as filed or granting it with conditions or modifications. This decision is based upon a number of factors, including the need for the facility; the nature of probable environmental impact; that the facility represents the minimum adverse environmental impact; that the location of the proposed facility conforms to applicable state and local laws; that the facility will serve the public interest, convenience and necessity; that DHES or the Board of Health has issued all necessary decisions, opinions, orders, certifications and permits, and that the use of public lands for location of the facility was evaluated and public lands were selected whenever their use is as economically practicable as the use of private lands and compatible with the environmental criteria listed in 75-20-503.

6. *Special Provisions - Nuclear Facilities*

The Board may not issue a certificate to construct a nuclear facility in Montana unless it meets the stringent criteria specified in 75-20-1203, MCA. All nuclear facilities are subject to a public referendum by the voters.

PIPELINES

Montana has no comprehensive regulatory program for pipelines. Aspects of pipeline projects may be covered by statutes such as 6: Utilities (p. 83) and Major Facility Siting (p. 37)

WATER POLLUTION DISCHARGE PERMITS

Industrial and commercial operations often require water pollution permits from the Water Quality Bureau of the Department of Health and Environmental Sciences. (See: WATER POLLUTION, P. 17)

FOOD PROCESSING AND SERVICE

DAIRIES

1. *Applicability and Procedures*

Licenses for operation of dairies must be obtained from the Department of Livestock. All licenses must be renewed annually by January 31 following date of expiration (December 31). Prior to construction, remodeling or relocation of a dairy, detailed plans must be submitted to the Department for review and approval. The Department of Health and Environmental Sciences must approve the means for disposal of wastewater, sewage and air pollutants. Local health agencies may investigate or sample the dairies in their area.

Statute: 81-22-201, 207, 305, 403, MCA

Contact: Department of Livestock
Milk and Egg Bureau

2. *Fees*

The license fees for operating a dairy range from $5 to $50.

Statute: 81-22-208(la), MCA

FOOD SERVICE ESTABLISHMENTS

1. *Applicability*

Food manufacturing establishments, meat markets, food service establishments, frozen food plants and commercial food processors must receive an annual license (expiration is December 31) from the Department of Health and Environmental Sciences. The local Board of Health must validate the license.

Statute: 50-50-201, 207, MCA

Rules: ARM 16.10.201, *et seq.*

Contact: Department of Health and
Environmental Sciences
Food and Consumer Safety Bureau

2. *Application Requirements*

The applicant for a food service license must submit an application on forms supplied by the DHES. Prior to the issuance of a license, an inspection of the establishment by state or local health officials is required. All plans for construction, conversion or remodeling must be submitted to the DHES for approval prior to the activity.

Statute: 50-50-203, MCA

Rules: ARM 16.20.238, 241

3. *Appeal of Denial*

a) The license issued by the DHES is not valid until validated by the local health officer. If the local health officer refuses to validate within 15 days after issuance by DHES, the license is denied.

b) The applicant for a license may appeal the local decision to the local Board of Health within 30 days.

Statute: 50-50-214, 215, MCA

4. *Fees*

The fee for a food service establishment license is $30.

Statute: 50-50-205, MCA

LIQUOR LICENSES - RESORT LICENSES

1. *Applicability*

In addition to all DHES regulations (See FOOD SERVICE ESTABLISHMENTS, PUBLIC WATER SUPPLY and LODGING) a retail license to sell liquor or beer must be obtained from the Department of Revenue (DOR). The city or county also may require a license. Special designation as a resort area may be obtained from the DOR in order to qualify for multiple licenses in a small area.

Statute: 16-4-202,MCA, *et seq.*

Rules: ARM 42.12.301, 302, 303, 305, 306, *et seq.*

Contact: Department of Revenue
Liquor Division

2. *Application Requirements*

All applications for a license to sell liquor or beer at retail must be made to the DOR on forms supplied by the DOR.

Rule: ARM 42.12.101

3. *Procedure for Obtaining a License*

a) After receipt of an application for a liquor or beer license, the DOR must publish promptly in a local newspaper a notice of the application. Those who wish to protest the issuance of the license may do so within 10 days after the final notice.

b) After receipt of application, the DOR must commence a thorough investigation of the applicant's qualifications and of the premise's suitability for business.

c) The application is approved if the applicant has no ownership interest in any other beverage establishment; neither the applicant nor any member of his immediate family is financed by or affiliated with a manufacturer, bottler or distributor of beer, wine or liquor; the applicant is a state resident and qualified to vote in a state election, and the applicant has an honorable record and is not under 19 years of age.

d) The application can be denied for lack of proper policing, because of zoning restrictions or if there will be adverse effects on residents in the area.

4. *Resort Areas*

To qualify as a resort, the business must have a current valuation as a resort or recreational facility, including land and improvements of not less than $500,000, and be under the sole ownership or control of one person or entity at the time the resort area plat is filed. Upon filing, the DOR must schedule a public hearing to be held in Helena to determine whether the facility proposed by the resort developer or landowner qualifies as a resort area. At least 30 days prior to the hearing, the DOR must publish a notice concerning the resort once a week for 4 consecutive weeks in a newspaper published in the county or counties in which the resort is located. Persons may present statements of support or opposition at the hearing. Within 30 days after the hearing, the DOR must accept or reject the plat for a resort. When the DOR has

accepted a plat and a resort area has been determined, applications may then be filed with the DOR for the issuance of resort retail liquor licenses within the resort area. A resort retail liquor license is not subject to quota limitations.

Statute: 16-4-202, 203, 207, 401, 402, 405, MCA

Rule: ARM 42.12.121-129

5. *Appeal of Denial*

The decision to deny a liquor or beer license can be appealed to the State Tax Appeals Board.

Statute: 16-4-411, MCA

6. *Fees*

Permit and license fees are listed in the statute and rule. The annual fee for a resort retail liquor license in a given resort area is $2000 for each license. The fee to process a new application for an all-beverage license is $100, while the processing fee for determination of a resort area is $250.

Statute: 16-4-501, MCA

Rule: ARM 42.12.111

RENDERING OR DISPOSAL PLANTS

1. *Applicability*

An annual license, which expires on December 31 of the year issued, is required from the Department of Livestock.

Statute: 81-9-301(1), MCA

Contact: Department of Livestock
Disease Control Bureau

2. *Fees*

The license fee for rendering or disposal plants is $5.

Statute: 81-9-301(2), MCA

SLAUGHTERHOUSES - MEATPACKING PLANTS

1. *Applicability*

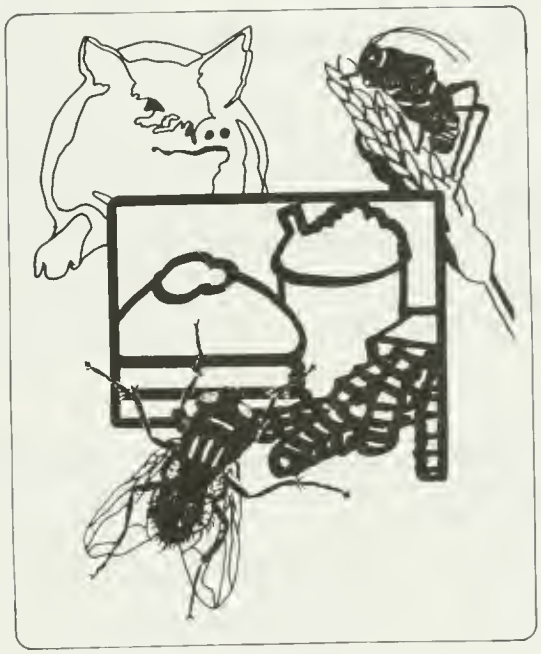
An annual license, which expires on December 31 of the year issued, is required from the Department of Livestock. The Department of Health and Environmental Sciences retains jurisdiction over the proper disposal of sewage and insuring that slaughterhouses and meatpacking plants have approved water supplies.

Statute: 81-9-201, 202, MCA

Contact: Department of Livestock
Disease Control Bureau

2. *Fees*

The annual license fee for operating a slaughterhouse or meatpacking plant is $1.



FORESTRY

TIMBER SALES

1. *Applicability*

Timber sales on state forest lands are administered by the Department of State Lands, and final approval is granted by the Board of Land Commissioners.

2. *Procedures*

a) Timber proposed for sale in excess of 100,000 board feet must be advertised in a newspaper of the county in which the timber is located for a period of at least 30 days, during which time the DSL can receive sealed bids up to the hour of the bid closing, as specified in the notice.

b) In cases of emergency due to fire, pest or blowdown, a sale of up to 1 million board-feet may be advertised for not less than 10 days.

c) Upon award of sale, the purchaser must execute a formal agreement, approved by the Board, which describes the area where the timber is to be cut, the approximate quantity to be cut by species and the rate for each product of each species. The purchaser also is required to furnish a bond to the state in an amount equal to at least 20 percent of the estimated value of timber sold.

3. *Restrictions on Sales*

Lands classified as timberlands are not subject to sale, but the timber on those lands may be sold. (See STATE LANDS, P. 64)

Statute: 77-2-303, 77-5-201 MCA, *et seq.*

Contact: Department of State Lands
Forestry Division

Board of Land Commissioners

4. *Transportation*

A detailed bill of sale is required before more than five coniferous trees may be transported over state highways. Also, transportation of more than 200 pounds of boughs from coniferous trees requires written authorization of the owner of the boughs.

Statute: 76-13-601, MCA

5. *Fees*

The Board establishes fees for brush disposal and timber stand improvement on state lands. Check with the DSL for the fee schedule.
Statute: 77-5-204(4), MCA

FOREST AREA ACTIVITIES

1. *Applicability*

Permits are required for OPEN BURNING on forest lands (See P. 4), operation of PORTABLE SAWMILLS (See P. 5), TIMBER REMOVAL (See P. 6) and SLASH DISPOSAL (See P. 6).

Contact: Conservation District Supervisors.

CONSERVATION DISTRICTS

1. *Applicability*

If forest lands are located within a Conservation District that has adopted land use regulations, forest activities may require approval from the conservation district supervisors. See AGRICULTURE - CONSERVATION DISTRICTS.

Statute: 76-15-701 MCA, *et seq.*

Contact: Conservation district supervisors.

HUNTING - FISHING - TRAPPING - WILDLIFE MANAGEMENT

The Department of Fish, Wildlife and Parks is charged with the regulation of fishing, hunting and wildlife management, and issues all hunting and fishing permits and licenses, with the exception of aerial hunting permits (see below). The Fish and Game Commission establishes hunting and fishing seasons and restricts hunting and fishing in certain areas.

Commercial Seining

1. *Applicability*

Any person who wishes to seine or capture non-game bait fish in any lake, stream or body of water for sale or commercial purposes must obtain a license from the DFWP.

Statute: 87-4-602, MCA

Rule: ARM 12.7.201(1)

Contact: Law Enforcement Division

2. *Application Requirements*

The applicant for a commercial seining license must submit a form provided by the DFWP, stating name, address, waters desired for seining and other information relating to the applicant's experience.
Rule: ARM 12.7.201(1)

3. *Fees*

The fee for a commercial seining license is $10.

Rule: ARM 12.7.201(2)

Fish and Game Licenses

1. *Applicability*

a) A person wishing to hunt, fish or trap game animals, fish, fur-bearers, upland game birds and migratory game birds must obtain a license before engaging in such activities.

b) The applicant for a hunting or fishing license must complete the information required on the license application. Failure to do so means denial of the license. Fees vary.

Statute: 87-2-106, MCA

Rules: ARM 12.3.101-301 and annual rules issued by the Fish and Game Commission and the Department

Contact: Licensing Section

Hunting, Fishing and Trapping Regulations

1. *Applicability*

Hunting, fishing and trapping regulations are issued annually. Check with the DFWP for the latest requirements. Regulations govern specific activities in various areas throughout the state.

Contact: Law Enforcement Division

Ice Fishing Shelter Regulations

1. *Applicability*

Ice fishermen setting shelters on frozen waters at Brown's Lake, Georgetown Lake, Deadman's Basin, Lake Frances, Bearpaw Lake, Beaver Creek Reservoir, Hauser Lake and Lake Helena must adhere to the regulations for using ice fishing shelters.
Statute: 87-1-303, MCA

Rules: ARM 12.6.101-108

Contact: Law Enforcement Division
Fisheries Division

Migratory Waterfowl Permits

1. *Applicability*

Regulations for migratory waterfowl permits are issued annually. Check with the DFWP for the latest requirements.
Contact: Wildlife Division
Law Enforcement Division

Shooting Preserves

1. *Applicability*

The DFWP issues operating licenses or permits for shooting preserves. All persons hunting on shooting preserves must have a valid resident or nonresident game bird license. Each shooting preserve is restricted to not more than 1,280 contiguous acres. No preserve may be located closer than 10 miles from another preserve or in areas that will substantially reduce hunting areas available to the public. Game that may be hunted on such a preserve is limited to artificially propagated pheasants, quail, partridges, turkeys and other species as prescribed by the DFWP.

Statute: 87-4-501, through 504, MCA

Contact: Law Enforcement Division

2. *Bird Tags*

The DFWP will furnish self-locking pheasant tags to licensed shooting preserve operators for 10 cents each. The tags must then be used by persons hunting on the preserve.

Statute: 87-4-501, 525, MCA

Rule: ARM 12.6.1201

3. *Fees*

Fees for shooting preserve licenses or permits are $50 per year for the first 160 acres of shooting preserve area, plus $20 per year for each additional 160 acres.

Statute: 87-4-503, MCA

Use of Poison Baits on Department Lands

1. *Applicability*

No 1080 baits can be placed on DFWP lands without written permission from the Fish and Game Commission.

Statute: 87-1-201, MCA

Rule: ARM 12.9.106

Contact: Wildlife Division

Wild Bird Permits

1. *Applicability*

a) No person may hunt, capture, possess, sell or transport any non-game wild bird or part of a wild bird without a certificate or permit from the DFWP. Exceptions exist for the hunting, trapping or killing of sparrows, crows, starlings, magpies, rock doves, blackbirds and other species designated by the DFWP and for the possession or transportation of parts or plumage of eagles used for religious purposes by a member of an Indian tribe when permitted by federal law.

b) It is unlawful for any person to possess or train a falcon, hawk, eagle, osprey or owl in the practice of falconry without a license. The DFWP may, however, grant permits to a person, whether licensed or not, for the taking and holding of raptors for commercial breeding purposes under certain specific conditions.

c) A permit is required from the DFWP to take, capture or possess a wild bird for the purposes of banding or scientific studies, salvaging birds killed in accidents, collecting abandoned birds nests for schools and museums and nursing sick or injured birds.

Statute: 87-5-201, 202, 204, 210, MCA

Rule: ARM 12.9.301

Contact: Wildlife Division
Law Enforcement Division

2. *Fees*

The fee for a falconry license is $3 per year. No fee is charged for a wild bird permit. A $20 fee is charged for a captive raptor breeding permit.

Statute: 87-5-204(2), 210, MCA

Rule: ARM 12.9.301(5)

SPECIAL ACTIVITIES

Breeding Game Birds and Animals

1. *Applicability*

Any person or corporation wishing to operate a game, game bird or fur farm must obtain a license from the DFWP. (See ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS, P. 49.)

Statute: 87-4-406 *et seq.*;
87-4-901 *et seq.*;
87-4-1001 *et seq.*, MCA

Contact: Law Enforcement Division

Fur Dealers

1. *Applicability*

Any person or corporation trading in skins or pelts of fur bearers or predators must secure a fur dealer's license from the DFWP. The license is issued annually and expires April 30 of each year.

Statute: 87-4-301, MCA

Contact: Law Enforcement Division

2. *Fees*

The fee for a resident fur dealer's license is $10, while the fee for a nonresident fur dealer's license is $50.

Statute: 87-4-304, MCA

Importation of Fish, Fish Eggs and Wildlife

1. *Applicability*

a) It is unlawful to bring live or dead salmonid fish or eggs into this state without written certification from the state of origin that the fish are free of diseases specified in ARM 12.7.501. The DFWP may inspect shipments of imported fish or eggs at any point in the state to ensure compliance with these regulations. The DFWP also may impound shipments for further inspecting and testing if reasonable cause exists.

Statute: 87-3-221, MCA

Rule: ARM 12.7.501

b) It is unlawful to transplant or introduce any fish or fish eggs into any body of water or to import any game birds, game or fur bearing animals or nongame wildlife into the state without approval from the DFWP.

Statute: 87-3-105, MCA

Outfitters and Guides

1. *Applicability*

No person may act as an outfitter, professional guide or resident guide without first obtaining a license from the DFWP. The applicant may be issued a general or special license.

Statute: 87-4-121, MCA

Rule: ARM 12.6.501

Contact: Law Enforcement Division

2. *Application Requirements*

a) Applicants for an outfitter's or professional guide's license must complete the application form furnished by the DFWP. The application must be filed with the director, and must include information regarding the applicant's experience, knowledge and equipment.

b) A person may make only one application for an outfitter's or guide's license in any one license year. Outfitters must pass an examination prior to obtaining a license.

c) An outfitter must be at least 18 years old, mentally and physically competent; own or hold under written lease the necessary equipment and facilities for the type of service to be provided; be a person with demonstrated respect for and compliance with the laws of any state or the United States regarding fish and game, natural resources conservation and preservation of the natural ecosystem; not have been convicted of more than one violation of the fish and game laws of any state or the United States within the past 5 years, or of any act of gross negligence or misconduct, and have a minimum of 5 years' experience in hunting and related activities and a minimum of 2 years' work as a professional guide with a licensed general outfitter or 2 years as a licensed special outfitter.

d) A professional guide must be at least 18 years old, mentally and physically competent, be endorsed and recommended by an outfitter with a valid license and not have been convicted of more than one violation of fish and game laws in the U.S. within the past 5 years or any act of gross negligence or misconduct.

Statute: 87-4-122 through 125, MCA

Rules: ARM 12.6.509, 510

3. *Fees*

The department will establish a fee schedule by rule.

Statute: 87-4-127, MCA

Roadside Zoos - Possession of Wild Animals

1. *Applicability*

a) It is unlawful to operate a roadside menagerie or zoo (a place where one or more wild animals, birds or reptiles are kept in captivity for exhibition or attracting trade) without a permit from the DFWP.

b) It is unlawful to possess a wild animal (skunk, fox, raccoon, bat or other designated animals capable of transmitting rabies) except as part of a fur-bearing enterprise, zoo, or for scientific research. Animals possessed for 6 months prior to January 1, 1982 are exempt.

Statute: 87-4-803, MCA
50-23-101, MCA, *et seq.*

Rule: ARM 12.6.1301

Contact: Department of Fish, Wildlife and Parks
Law Enforcement - roadside zoos

Department of Health and Environmental Sciences
Health Services Division - wild animals

2. *Application Requirements*

Application for a roadside menagerie or zoo permit must be completed on forms provided by the DFWP. No permit can be issued or renewed until the roadside zoo or menagerie is covered by an insurance policy to cover accidents on the premises.

Statute: 87-4-803, MCA

Rule: ARM 12.6.1308

3. *Fees*

The annual permit fee for five or fewer animals is $10. The annual fee for more than five animals is $25.

Statute: 87-4-803, MCA

Snare Trapping

1. *Applicability*

Snare traps may be used lawfully to take predators, furbearers, unprotected nongame animals and unprotected nongame birds. It is unlawful to set snare traps on private property without the owner's consent. Traps must be tagged with proper identification and set so as not to unduly endanger livestock.

Statute: 87-3-107, MCA

Rule: ARM 12.6.1001
Contact: Law Enforcement Division

PREDATOR CONTROL - AERIAL HUNTING

1. *Applicability*

Aerial hunting of predatory animals without a permit is prohibited by anyone except employees of the state, its subdivisions or the federal government within the scope of employment. Any landowner having residence and domicile in Montana may engage

in the aerial hunting of wild animals over his land without a permit, provided he annually notifies the Department of Livestock in writing that he plans to engage in aerial hunting and gives an adequate description of the location of the land over which he will hunt.

Statute: 81-7-501, 505, MCA

Rule: ARM 32.22.101

Contact: Department of Livestock
Vertebrate Pest Control Bureau

2. *Application Requirement*

Applicants for an aerial hunting permit must apply to the Department of Livestock on forms provided by it. Permits issued to nonresidents may be used only in Montana counties adjacent to the state line that are inadequately serviced by resident permittees or on real property in Montana owned by the nonresident permittee.

Statute: 81-7-503, MCA

Rule: ARM 32.22.102

3. *Fees*

Fees for permits are as follows: (a) $30 for less than one year; (b) $40 for 1-2 years; (c) $50 for 2-3 years.

Statute: 81-7-504, MCA

Rule: ARM 32.22.103

LODGING - CAMPING

LODGING ESTABLISHMENTS

1. *Applicability*

Hotels, motels, tourist homes and rooming houses require annual licenses, which expire on December 31 each year, from the Department of Health and Environmental Sciences. Validation is required from the local health officer.

Statute: 50-51-201, MCA

Rule: ARM 16.10.630 *et seq.*

Contact: Local Board of Health

Department of Health and Environmental Sciences
Food and Consumer Safety Bureau

2. *Application Requirements*

Application for a public accommodation license must be made on forms provided by the DHES. A separate license is required for each establishment except where

more than one is operated on the same premises and under the same management. Licenses are renewed as a matter of right unless conditions exist which are grounds for cancellation or denial.

Statute: 50-51-202 through 204, MCA

3. *Procedure for Obtaining License*

a) Plans for new construction or for additions or alterations to existing hotels, motels, tourist homes or rooming houses must be submitted to the DHES for review and approval before construction can begin.

b) The local health officer must validate the license within 15 days after issuance by the DHES. If not, the license is denied.

c) A denial by the local health officer may be appealed to the local Board of Health within 30 days.

Statute: 50-51-214, 215, MCA

Rule: ARM 16.10.630, 631, 632, 633

4. *Fees*

The fee for application or renewal of a public accommodation license is $30.

Statute: 50-51-204, MCA

5. *Criteria*

The license will be issued if the plan review shows compliance with all applicable building safety codes, and a pre-license inspection shows compliance with DHES regulations.

Rule: ARM 16.10.630, *et seq.*

CAMPGROUNDS - TRAILER COURTS - WORK CAMPS

1. *Applicability*

Licenses are required from the DHES. Validation is required from the local health officer. Inspections are conducted by state and local health officers. Plans are submitted to the DHES and the local health officer. Operators of water supply systems for trailer courts must be certified by the Board of Water and Wastewater Operators. Trailer courts, work camps and campgrounds may also require review under the subdivision laws. See SUBDIVISIONS and PUBLIC WATER SUPPLY.

Statute: 50-52-101,MCA, *et seq.*

Rules: Trailer Courts and Tourist Campgrounds; ARM 16.10.703

Work Camps; ARM 16.10.903

Private Campgrounds; ARM 16.10.902

Contact: Local Board of Health

Department of Health and Environmental Sciences
Food and Consumer Safety Bureau

2. *Application Requirements*

Application for a license to operate a tourist campground, trailer court or work camp must be made to the DHES on forms provided by the Department. Licenses expire on December 31 of the year issued. Scaled layout plans of a proposed trailer court, campground or work camp must be prepared and submitted to the DHES and the local health authority for approval prior to beginning construction.

Statute: 50-52-201, 203, MCA

3. *Procedure for Obtaining License*

a) The local health officer must validate the license within 15 days after issuance by the DHES. Failure to do so is a denial of the license.

b) A denial on the part of the local health officer may be appealed to the local Board of Health within 30 days.

Statute: 50-51-208, 209, MCA

4. *Fees*

The fee for a license is $30.

Statute: 50-52-202, MCA

MINING

RECORDING OF UNPATENTED MINING CLAIMS

1. *Applicability*

Any person who discovers and wishes to mine a vein, lode or ledge of rock on federal public domain land bearing valuable mineral deposits must follow these procedures:

a) Post a written notice at the point of discovery;

b) Within 30 days, mark boundaries of the site;

c) Within 60 days, comply with United States mining laws and record the location with the county clerk and recorder, who in turn must provide a copy within 20 days to the Department of State Lands; and

d) File an annual work report with the county.

Statute: 82-2-101,MCA, *et seq.*

Contact: County Clerk and Recorder

U.S. Department of the Interior
Bureau of Mines
Regional Office

LANDOWNER NOTIFICATION

1. *Applicability*

When surface and mineral rights are in separate ownership, the surface owner must be notified and give his approval in writing of the proposed operations before any prospecting, exploration or development of subsurface minerals can take place.

Statute: Landowner Notification Act, 82-2-301,MCA, *et seq.*

Contact: Surface Owner

MINING RIGHT-OF-WAY

1. *Applicability*

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to conduct work on a mining claim. Application is made to the district court.

Statute: 82-2-201,MCA, *et seq.*

Contact: District Court

2. *Procedure to Obtain Right-of-Way*

a) If the mine owner cannot by agreement with adjacent landowners obtain a right-of-way, he may file a complaint in district court requesting that a right-of-way be created.

b) After receipt of the complaint, the district judge must issue a summons to the parties requiring appearance before the court within 10 days.

c) If the judge determines that the right-of-way is needed, he must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.

d) Use of right-of-way can commence only upon payment of the assessed damages.

Statute: 82-2-203 through 208, MCA

3. *Appeal of Assessed Damages*

Any party may appeal the commissioners' assessment of damages to the district court within 10 days after the report is filed.

Statute: 82-2-209, MCA

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. *Applicability*

An operator must obtain a prospecting permit from the Department of State Lands for prospecting on lands not included in a current operating permit. A reclamation plan and bond must be submitted.

Statute: Strip and Underground Mine Reclamation Act, 82-4-201, MCA, *et seq.*

Rules: ARM 26.4.1001-1015, 1101-1125

Contact: Department of State Lands
Reclamation Division

2. *Application Requirements*

a) The application for a prospecting permit must be made in writing, notarized and submitted to the DSL in duplicate on forms furnished by the Department. A detailed prospecting map and a prospecting reclamation plan must accompany the application. A description of the proposed method of exploration and type of equipment to be used must be included. Prior to obtaining a prospecting permit, the applicant must file a reclamation and revegetation bond with the DSL in an amount determined by it, based upon the estimated cost by the DSL of required reclamation and restoration work.

b) At least 30 days but not more than 60 days prior to the permit's anniversary date, the operator may submit an application for a permit renewal, stating number of holes permitted and drilled, listing surface disturbances and supplying an updated map.

Statute: 82-4-226, MCA

Rules: ARM 26.4.1001,1003,1102

3. *Fees*

The application fee for a prospecting permit is $100.
Statute: 82-4-226(3), MCA

4. *Criteria*

The permit for prospecting for coal and uranium may be denied for numerous reasons, including, but not limited to, adverse reclamation possibilities, exceptional topographic characteristics, biological productivity, ecological fragility, historic or geologic importance or threat of a public hazard.

Statute: 82-4-227 and 82-4-228, MCA

Rules: ARM 26.4.1141-1148

COAL AND URANIUM MINING: MINE SITE LOCATION PERMITS

1. *Applicability*

A mine site location permit is required prior to commencing any preparatory work (i.e., any on-site disturbances, including construction of roads, rail spurs, buildings, power lines, etc., but excluding prospecting) unless an operating permit has been granted under the Strip and Underground Mine Reclamation Act (See COAL AND URANIUM: OPERATIONS, P. 57) and the application for such a permit includes a long-range mining plan. The siting permit is valid for one year and renewable until an operating permit is obtained.

Statute: Strip and Underground Mine Siting Act, 82-4-104, MCA

Contact: Department of State Lands
Reclamation Division

2. *Application Requirements*

Any person who desires a mine-site location permit must file an application with the DSL. The application must contain a reclamation plan for any preparatory work and other information required by the DSL. The DSL may require maps showing a water drainage plan; location of all adjacent waters, buildings, roads, cemeteries, etc.; geologic cross sections; a public liability insurance policy, etc. The applicant is also required to file with the DSL a surety bond payable to the state in a sum determined by the Board of Land Commissioners. The sum may not be less than $200 nor more than $10,000 for each acre of land disturbed by preparatory work, with a minimum of $5,000.

Statute: 82-4-122,123, MCA

Rules: ARM 26.4.1101-1129

3. *Procedure for Obtaining Permit*

The DSL must notify the applicant for a mine-site location permit of its decision within 365 days of receipt of the complete application. If the proposed site is approved, the department must issue a mine-site location permit. If the location is not approved, the DSL must notify the applicant in writing, stating reasons why the location is unacceptable. The DSL also must notify the applicant within 365 days whether the mine plan is acceptable. If the plan is not acceptable, the DSL must state its reasons. It may propose modifications, delete areas or reject the entire plan.

Statute: 82-4-122, MCA

4. *Fees*

A fee of $50 is required for a mine-site location permit.

Statute: 82-4-123, MCA

5. *Criteria*

The mine-site location permit may be denied for numerous reasons, including, but not limited to, an inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, biological productivity, ecological fragility, historic or geologic importance, threat of a public hazard or designation of the land as unsuitable for mining.

Statute: 82-4-125; 82-4-227, 228, MCA

Rules: ARM 26.4.1141-1148

COAL AND URANIUM MINING: OPERATIONS

1. *Applicability*

The Workers' Compensation Division of the Department of Labor and Industry enforces mine safety regulations. An operator must obtain a permit from the Department of State Lands before engaging in strip or underground mining. The permit must designate all lands reasonably anticipated to be mined during the applicable 5-year period. A permit is renewable on each 5-year anniversary upon application to the DSL at least 120 but not more than 150 days prior to the renewal date so long as the operator is in compliance with the permit requirements and the reclamation plan. As rapidly, completely and effectively as the most advanced state of the art will allow, the operator must reclaim and revegetate the land affected by his operation, except that underground tunnels or shafts need not be revegetated.

Statutes: Montana Coal Mining Code (Mine Safety) 50-73-101 *et seq.* and Strip and Underground Mine Reclamation Act, 82-4-201 *et seq.* MCA

Rules: ARM 24.30.1302, 26.4.301-912

Contact: Department of Labor and Industry
Workers' Compensation Division
Safety and Health Bureau

Department of State Lands
Reclamation Division

2. *Application Requirements*

a) Permit

An operator desiring a coal or uranium mining permit must file an application furnished by the Department of State Lands, which contains a complete and detailed plan for the mining, reclamation, revegetation and rehabilitation of the land and water proposed to be affected by the operations. The application must include information regarding climate, geology, hydrology, neighboring surface waters, vegetation, etc. For applications to mine areas containing federal coal, 10 copies of all applications, maps, reports and other information

are required. Three copies must be sent to the DSL and seven to the Office of Surface Mining, U.S. Department of the Interior. For applications to mine areas not containing federal coal, three copies of all applications, maps, reports and other information must be submitted to the DSL. Each applicant for a coal mining permit also must submit as part of the application a certificate issued by an insurance company authorized to do business in Montana certifying that the applicant has a public liability insurance policy for the strip or underground mining and reclamation operations for which the permit is sought. Prior to the issuance of a permit, the operator must file with the DSL a bond payable to the State of Montana with surety satisfactory to the DSL in a sum to be determined by the Board of Land Commissioners of not less than $200 for each acre or fraction of an acre of the land affected, with the minimum bond to be $10,000.

b) Reclamation Plan

The reclamation plan must set forth in detail the manner in which the applicant intends to comply with provisions regarding grading, backfilling, water control, topsoiling, reclamation and coal conservation, as well as all measures to be taken to eliminate damages to landowners and members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, subsidence, landslides, water pollution and hazards to life and property. Further, the plan must list the steps to be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards.

Statute: 82-4-222, 223, 231, MCA

Rules: ARM 26.4.302,308

3. *Procedure for Approval of Plan*

a) The application for a permit or major revision of a permit, which must contain the reclamation plan, must be submitted to the DSL, which then notifies various local governmental bodies, planning agencies, sewage and water treatment authorities and water companies in the area of the proposed mining. Any person interested in the proposed mining or an officer of any federal, state or local governmental agency has the right to file written objections to the application within 30 days of the applicant's published notice. If written objections are filed and an objector requests an informal conference, the DSL must hold an informal conference in the area of the proposed mining after sufficient public notice.

b) The DSL must notify the applicant by certified or registered mail within 120 days after receipt of the complete application regarding acceptability of the plan. The DSL may extend the 120 days an additional 120 days upon notification of the applicant in writing. The DSL then must make written findings granting or denying the permit or revising the application in whole or in part. A landowner, operator or any person affected by this decision may by written notice request a hearing by the Board of Land Commissioners, and the hearing must be held within 30 days of the request. The Board must issue its decision within 20 days.

c) Every reclamation plan is subject to annual review and modification.

Statute: 82-4-231, MCA

4. *Fees*

An application fee of $50 is required prior to issuance of a permit.

Statute: 82-4-223, MCA

5. *Criteria*

The permit for coal and uranium mining operations may be denied for numerous reasons, including, but not limited to, an inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, proposed location on a significant alluvial valley floor, biological productivity, ecological fragility, historic or geologic importance, threat of a public hazard or designation of the land as unsuitable for mining. (See also WATER QUALITY DISCHARGE PERMITS, P. 17 and AIR QUALITY PERMITS, P. 32)

Statute: 82-4-227, 228, MCA

Rules: ARM 26.4.1141-1148

URANIUM - SOLUTION EXTRACTION

1. *Applicability*

In addition to a mining permit from the Department of State Lands (See COAL AND URANIUM MINING), permits are required from the Department of Health and Environmental Sciences for uranium mining by the solution extraction (in-situ) method.

Statute: 75-5-401 through 404, 82-4-201,MCA, *et seq.*

Rules: ARM 16.20.1101 *et seq.*

Contact: Department of Health and Environmental Sciences
Water Quality Bureau

Department of State Lands
Reclamation Division

2. *Application Requirements*

The owner or operator of any proposed source discharging pollutants to groundwater for purposes of in-situ mining must file a completed Montana In-Situ Mining of Uranium Control System (MIMUCS) permit application no less than 180 days prior to commencing operations. The following information is required: site definition, including an extensive topographic map of the area; plans for retention of process waters and the disposal of waste waters; plans for emergency storage, handling, treatment and disposal of leaks and spills from the waters pumped underground; a detailed monitoring program to establish baseline water quality in the production area, accompanied by maps of monitoring wells; procedures to be used to prevent leachate excursion; actions taken to confirm, determine the extent of and correct an excursion; description of well completion; various information, including a chemical description of all waste residue; proposed procedure for restoration of affected groundwater; reclamation measures, and any other information the DHES deems appropriate.

Rule: ARM 16.20.1105

3. *Procedure for Obtaining Permit*

(1) In order to determine an applicant's capability to conduct in-situ mining, pilot testing may be required by the Department of Health and Environmental Sciences after receipt of a MIMUCS permit application.

(2) Upon receipt of the application and after any required pilot testing, the DHES must make a tentative determination regarding issuance or denial of the MIMUCS permit.

(3) Criteria for denial are (1) the application is inadequate or (2) degradation of state waters cannot be prevented.

(4) If the tentative decision is to issue the permit, the DHES must mail the MIMUCS application to any interested person and circulate it within the geographical area.

(5) The DHES must provide a period of not less than 30 days following the public notice to allow for written public comment.

(6) A request for a public hearing must be made within the 30-day period cited in (5) above. Public notice of any hearing on the permit application must be circulated at least 30 days prior to the hearing.

(7) If no hearing is held, the DHES must make a final determination on the application no later than 180 days after receipt of the completed application. If a hearing is held, the DHES must make a final determination following review of the information presented at the hearing.

4. *Duration of Permit*

A permit is issued for a fixed term, not to exceed 10 years.

Rules: ARM 16.20.1106, 1107, 1108, 1110, 1115

HARDROCK MINING: EXPLORATION

1. *Applicability*

a) Hardrock mining applies to ores other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock or uranium. An exploration license is required from the Department of State Lands and a reclamation and revegetation bond must be posted. Exemptions are made for operations conducted on federal lands if the Board of Land Commissioners determines that applicable federal rules are at least as stringent, and for persons collecting rock samples as a hobby or for sale in any amount not exceeding $100.

b) "Small miners" are also exempt. A small miner is an operator who removes less than 36,500 tons annually, who does not hold a hardrock mining permit for other operations in the state and whose operations leave no more than 5 acres disturbed and unreclaimed or two operations of less than 5 acres each which are at least one mile apart and are not operated simultaneously. For small miners, "disturbed areas" do not include certain access roads. The small miner must agree in writing not to pollute streams and to protect human and animal safety. (See WATER POLLUTION: DISCHARGE PERMITS, P. 17.)

Statute: 82-4-301 MCA, *et seq.*

Rules: ARM 26.4.101 *et seq.*
Contact: Department of State Lands
Reclamation Division

2. *Application Requirements*

The application for an exploration license must be made in writing, notarized and submitted to the DSL in duplicate on forms furnished by the Department. An exploration map or detailed sketch must accompany the applications. The DSL determines the amount of the reclamation and revegetation bond, which cannot be less than $200 or more than $2,500 for each acre or fraction thereof of the disturbed area. The operator must agree to reclaim any damaged land and not be in default of any other reclamation law.

Statute: 82-4-332, 338, MCA

Rules: ARM 26.4.102,1101-1121

3. *Procedure for Obtaining License*

On approval by the Board of Land Commissioners, the applicant will receive a hardrock exploration license renewable annually on application and payment of the renewal fee.

Rule: ARM 26.4.102

4. *Fees*

The fee for an exploration license is $5.

Statute: 82-4-332, MCA

HARDROCK MINING: OPERATIONS

1. *Applicability*

An operating permit must be obtained from the Department of State Lands prior to commencement of mining. (See EXPLORATION, P. 60, for exemptions.) A reclamation and revegetation bond is required, and a reclamation plan must be submitted. Annual reports and fees are required, and the DSL makes annual inspections for compliance with the reclamation plan. The Workers' Compensation Division enforces safety regulations. (See WATER POLLUTION: DISCHARGE PERMITS, P. 17.)

Statutes: 82-4-301 *et seq.*, and 50-72-101 MCA, *et seq.*

Rules: ARM 26.4.101 *et seq.*, and 24.30.1301

Contact: Department of State Lands
Reclamation Division

Department of Labor and Industry
Workers' Compensation Division
Safety and Health Bureau

2. *Application Requirements*

The applicant must obtain an operating permit for each mine complex, on a form obtained from the DSL, containing information on the minerals proposed to be mined, proposed reclamation plan, mining plan and a detailed map of the area. The applicant must file a surety bond in an amount determined by the DSL of not less than $200 or more than $2,500 for each acre or fraction thereof of the disturbed area. Despite these limits, the department may not accept a bond for less than the amount required for the state to reclaim the disturbed area.

Statute: 82-4-335, 338, MCA

Rules: ARM 26.4.107,1101-1120

3. *Procedure for Obtaining Permit*

a) Time Requirements, Hearing

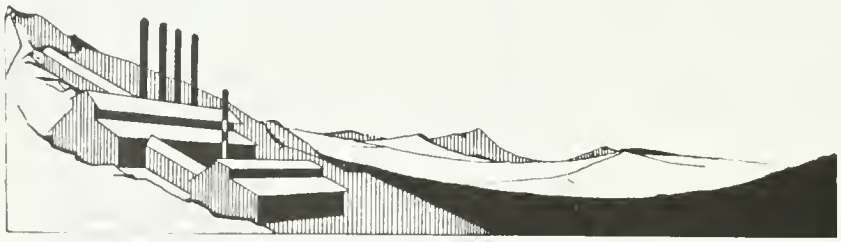
(1) All applications for hardrock mining permits must be reviewed for completeness within 30 days. The application is considered complete unless the applicant is notified of any deficiencies within 30 days.

(2) Unless the review period is extended, the Board of Land Commissioners must review the adequacy of the proposed reclamation plan and mining plan within 30 days of the determination that the application is complete or within 60 days if the Board does not notify the applicant of any deficiencies in the application.

(3) Prior to issuance of a permit, the DSL must inspect the site. If the site is not accessible due to extended adverse weather conditions, the DSL may extend the time period described in (2) above by not more than 180 days to allow for inspection of the site. If the DSL determines that additional time is needed to review the application and reclamation plan for a major operation, the DSL and applicant must negotiate to extend the period described in (2) above by not more than 365 days.

(4) The operating permit must provide that the reclamation plan may be modified by the Board after timely notice and opportunity for hearing.

Statute: 82-4-335, 337, MCA



4. *Large-Scale Developments - Local Impact Board*

a) When a proposed mining project will employ 100 people or cause a local population increase of at least 15%, the applicant must submit an economic impact plan to the affected counties and to the Hardrock Mining Impact Board. The plan must include development timetables, work-force projections, projected costs of utility and other public services needed to serve the added population, necessary financing, etc. The developer may be required to provide financial or other assistance to prepare for and evaluate the plan.

b) The affected local governments have 90 days in which to submit objections to the economic impact plan to the impact board. One 30 day extension may be granted. If objections cannot be resolved, the impact board will hold a hearing. Within 60 days after the hearing, the Board will issue findings and amend the impact plan as necessary. Within 30 days after receipt of the final approved plan, the developer must provide a written guarantee that it will make all necessary payments required by the plan.

c) Impact plan review is conducted concurrently with the DSL permit review. Activities under the permit may not commence until the Hardrock Mining Impact Board approves an impact plan and the permittee has provided a written guarantee to the DSL and the Hardrock Mining Impact Board that it will make all payments according to the time schedule in the approved impact plan. Under certain circumstances the developer or an affected county may petition the Board for an amendment to the impact plan.

Statute: 90-6-301,MCA, *et seq.*

Rule: ARM 8.104.202 *et seq.*

Contact: Board of County Commissioners

Department of Commerce
Division of Community Development
Hard Rock Mining Impact Board

5. *Fees*

The application fee for a hardrock mining permit is $25.
Statute: 82-4-335, MCA

Rule: ARM 26.4.107

6. *Criteria*

The permit for hardrock mining may be denied if (1) the plan of development, mining or reclamation conflicts with the Montana Clean Air Act (75-2-101 MCA, *et seq.*, see P. 32), the Montana Water Quality Act (75-5-101 MCA, *et seq.*, see P. 17), the Public Water Supply Act (75-6-101 *et seq.*, MCA, see P. 16), or (2) the reclamation plan is insufficient to accomplish the proposed reclamation.

OPEN CUT MINING

1. *Applicability*

Open cut mining applies to bentonite, clay, scoria, phosphate rock, sand or gravel. No mining is allowed unless the miner has entered into a reclamation contract with the Board of Land Commissioners. A reclamation plan must be submitted. Exemptions may be available to certain operations on federal lands if the Board determines that federal regulations are at least as stringent, and to operators who have not removed a cumulative total of 10,000 cubic yards of product or overburden since 1973. The Workers' Compensation Division enforces safety regulations.

Statutes: Open Cut Mining Act, 82-4-401 *et seq.*, and 50-72-101,MCA, *et seq.*

Rules: ARM 26.4.201 *et seq.*, and 24.30.1301

Contact: Department of State Lands
Reclamation Division

Department of Labor and Industry
Workers' Compensation Division
Safety and Health Bureau

2. *Application Requirements*

An operator must submit an application for a reclamation contract to the DSL on forms approved by the Board of Land Commissioners. Two copies of all submitted materials are required. Also required is a bond of at least $200 for each affected acre, a map of the intended operations and detailed descriptions of the mining and reclamation procedures, haul roads, topographic area, soils, wildlife, climate and vegetation. The operator also must submit a reclamation plan to the Board before commencing any open cut mining. The Board must notify the operator if it has approved or disapproved the plan within 30 days, unless the period is extended an additional 30 days.

Statute: 82-4-433, 434, MCA

Rule: ARM 26.4.203

3. *Fees*

An application fee of $50 is required for an open cut mining contract.

Statute: 82-4-432, MCA

4. *Criteria*

The Board of Land Commissioners will enter into a contract with the operator if it determines that the fee, bond and detailed reclamation plan satisfy the law. If the Board, however, determines that the mining or reclamation of an area cannot be carried out according to the law, the application will not be approved and a contract to mine will not be issued. (See also WATER QUALITY PERMITS, P. 17 and AIR QUALITY PERMITS P. 32)

Rule: ARM 26.4.204

PROSPECTING ON STATE LANDS

1. *Applicability*

Prospecting permits must be obtained from the DSL to prospect for metalliferous metals (e.g., gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) or gems (e.g., sapphires, rubies and other stones known as "precious" or "semiprecious," but not including stones used in construction work) on state lands.

Statute: 77-3-101, MCA, *et seq.*

Contact: Department of State Lands
Land Administration Division

2. *Application Requirements*

The applicant for a prospecting permit on state lands is required to pay the issuance fee. The permittee also must pay an annual fee during the life of the permit.

3. *Fees*

The prospecting permit fee is set by the DSL and approved by the Board of Land Commissioners. Check with the DSL.

Statute: 77-3-101, MCA

Rule: ARM 26.2.401

OPERATIONS ON STATE LANDS: COAL MINING

1. *Applicability*

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary term is for 10 years and so long thereafter as coal is produced in commercial quantities. Rent and royalties must be paid. The Board of Land Commissioners may not issue leases (1) to any citizen of another country or any person, partnership, corporation, association or other legal entities controlled by interests foreign to the U.S. unless said country provides reciprocal rights to U.S. citizens, or (2) if it is determined that strip-mining methods for coal extraction would adversely affect the methods of recovery of deep minable coal from future operations on state lands. (See WATER POLLUTION: DISCHARGE PERMITS, P. 17.)

Statute: 77-3-301, MCA, *et seq.*

Rules: ARM 26.3.301 *et seq.*

Contact: Department of State Lands
Centralized Services Division

2. *Application Requirements*

All coal leases must comply with the Strip and Underground Mine Siting Act (82-4-101 MCA, *et seq.*, See P. 56) and the Strip and Underground Mine Reclamation Act, (82-4-201 *et seq.*, MCA, See P. 55). Mining operations must be as systematic and orderly as possible to prevent the waste of coal. All applications for coal leases may be made at any time during the year on a form furnished by the DSL. An adequate and sufficient description of the lands sought for lease must be included.

Statute: 77-3-306, MCA

Rule: ARM 26.3.306

3. *Procedures for Obtaining Lease*

a) When sufficient applications for leases have been received, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for four weeks preceding the sale.

b) Prior to issuing a coal mining lease, the Board of Land Commissioners must evaluate the coal and land proposed for lease in order to determine the fair market value of any coal reserves located on the land.

c) Sales of state coal leases are through competitive bidding. The DSL may require a bid deposit in any amount it may determine, up to 10 percent of the appraised value of the coal offered for lease.

Statute: 77-3-312, MCA

Rule: ARM 26.3.306

4. *Fees, Rent, Royalty*

a) A fee of $10 is required for a lease application.

b) Rent is on a per acre basis but in no case can it be less than $2 per acre.

c) The lessee must pay in cash a royalty on all coal produced from the leased premises at a rate of not less than 10 precent of the coal's value.

Statute: 77-3-316, MCA

Rules: ARM 26.3.306, 309, 310

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. *Applicability*

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals and gems. (See Prospecting on State Lands, P. 64, for definitions.) Royalties must be at least 5 percent of the returns from the mine.

Statute: 77-3-101, MCA, *et seq.*

Rule: ARM 26.3.601

Contact: Department of State Lands
Land Administration Division

2. *Application Requirements*

Application for a mining lease must be made on forms furnished by the DSL.
Statute: 77-3-111, MCA

Rule: ARM 26.3.601 *et seq.*
For uranium and other fissionable materials, see ARM 26.3.501 *et seq.*

3. *Procedure for Obtaining Lease*

a) When the DSL receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in the official county newspaper of the county where the tract is located.

b) If bids are accepted, the tract will be leased to the highest bidder unless the Board determines that the bid is not in the state's best interests. All sales take place in the county courthouse of the affected county.

c) Prior to the leasing of state lands for mining, the DSL must conduct an investigation of the lands to determine the character of the lands for mining and the amount of royalty. The DSL may require the applicant to pay for this investigation in a sum not to exceed $500.

d) The lease will contain provisions on prospecting and mining, royalty, etc. The Board also may require payment of a bond or authorize pooling agreements and unit plans of operation.

Statute: 77-3-111, 112, 119, 120, 121, MCA
Rule: ARM 26.3.601, 26.3.501 *et seq.*

4. *Fees*

The fee for the metalliferous mineral or gem mining lease is $10. No application fee is required.

Rule: ARM 26.3.601, 26.3.501 *et seq.*

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NONMETALLIFEROUS MINERALS

1. *Applicability*

Leases for nonmetallic minerals (e.g., stone, limestone, oil shale, clay, bentonite, calcite, talc, mica, ceramic, asbestos, marble, diatomite, gravel or sand, phosphate, sodium, potash, sulphur, fluorite, borite or any other nonmetallic mineral, exclusive of coal, oil or gas) on state lands are issued on a royalty basis for no longer than a 10-year period. Monthly reports are required. The Board of Land Commissioners may issue permits on its terms and conditions to the Department of Highways, the board of county commissioners or any local government for the removal and use of stone, gravel or sand from state lands for the construction and maintenance of streets, bridges, highways, etc.

Statute: 77-3-201, MCA, *et seq.*

Contact: Department of State Lands
Land Administration Division

2. *Application Requirements*

See: OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

3. *Procedure for Obtaining Lease*

See: OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

4. *Fees*

The application fee of $10 is required for a nonmetalliferous lease. Upon issuance of the lease, an additional $10 fee is required.

Statute: 77-3-202, MCA
Rule: ARM 26.2.401

OPERATIONS ON STATE LANDS: GEOTHERMAL RESOURCES

See p. 34

OIL AND GAS

OIL AND GAS

1. *Applicability*

Notices of intention to explore and to drill must be filed with the Oil and Gas Conservation Board of the Department of Natural Resources and Conservation, and drilling permits must be obtained. Wells must comply with spacing units and pooling orders established by the Board and be operated in compliance with the Board's regulations. Operations also must comply with water pollution regulations of the Department of Health and Environmental Sciences. (See WATER DISCHARGE PERMITS, P. 17) A public utility may apply to the Board for certification of eminent domain power to maintain underground gas storage reservoirs. Waste of oil and gas is prohibited.

Statute: 82-11-101 *et seq.*, 82-10-305, MCA

Rules: ARM 36.22.601 *et seq.*

Contact: Department of Natural Resources and Conservation
Oil and Gas Conservation Division

Department of Health and Environmental Sciences
Water Quality Bureau

2. *Application Requirements*

Notice of intention to drill an oil or gas well or conduct seismic operations must contain information on identification of area, logs of activity, restoration of surface lands to their previous grade, protection of ground and surface water, drilling, casing and plugging of wells and public access to records. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

Statute: 82-11-122,123,134, MCA

Rule: ARM 36.22.601

3. *Procedure for Obtaining Permit*

A determination is made regarding whether the location is legal, and the plan of work, including spacing of wells and casing proposals, is reviewed. If the project is found to comply with applicable statutes, rules and regulations, a permit is issued. No time limits are established for permit issuance.

4. *Fees*

Permit fees required for drilling of an oil or gas well are as follows:

a) For each well with an estimated depth of 3,500 feet or less, $25;
b) From 3,501 feet to 7,000 feet, $75;
c) 7,001 feet and deeper, $150.

Statute: 82-11-134, MCA

Rule: ARM 36.22.603

GEOPHYSICAL EXPLORATION

1. *Applicability*

Persons engaged in the business of geophysical exploration using seismographs and explosives must obtain an exploration permit from the county clerk and recorder.

Statute: 82-1-101, MCA, *et seq.*

Contact: Secretary of State

County Clerk and Recorder

Board of Oil and Gas Conservation

2. *Application Procedures*

a) The applicant must file a notice of intent with the clerk and recorder of each county in which exploration will be conducted.

b) The applicant must also file a surety bond with the Secretary of State, for the purpose of indemnifying property owners against damage to property.

c) On being notified that the surety bond has been filed, the county clerk and recorder will issue an exploration permit valid for the calendar year in which it was issued. The county clerk will then notify the Board of Oil and Gas Conservation, which will check whether the applicant is in compliance with all applicable laws and rules.

d) A report must be filed with the county clerk and recorder within 3 months after the firing. Shot holes must be plugged in a manner and with a material specified by the Oil and Gas Conservation Board.

Statute: 82-1-103 through 106, 108, MCA

3. *Notice to Surface Users*

Before commencing operations, the person must notify any surface users of the land as to the schedule and locations of planned exploration activities. Persons wishing to conduct geophysical operations should be aware that the Board of Oil and Gas Conservation may, by rule, designate certain areas where geophysical exploration and activities are not permitted.

Statute: 82-1-107, 82-1-101, MCA

4. *Identification of Exploration Crews*

Exploration crews operating in the state must comply with crew identification requirements established by the Board of Oil and Gas Conservation.

Statute: 82-1-101, MCA

Rule: Unadopted at time of publishing.

5. *Fees*

The fee for a geophysical exploration permit is $5 per calendar year.

5. *Geophysical Exploration on State Lands*

A seismic exploration permit must be obtained from the Department of State Lands to explore for oil and gas by geophysical methods on state-owned lands where no oil and gas lease is held. An applicant must be qualified to do business in the state, post a surety bond, and provide proof of notification to the surface owner or lessor, the name and address of the exploration firm and the legal description of the area to be explored. A $10 fee must accompany the application, and a charge of $50 per hole or $100 per mile will be assessed. The regulations set forth restrictions and requirements relating to surface disturbances, proximity to surface water and structures, fire prevention, operations and plugging and abandonment of shot holes. A permit is good for one year. Reports must be submitted to the Department within six months after termination of operations.

Statute: 77-3-401, MCA

Rule: 26.3.230-237

OPERATIONS ON STATE LANDS: OIL AND GAS

1. *Applicability*

The Board of Land Commissioners is authorized to lease any state-owned lands for the purpose of oil and gas exploration or drilling. Residents of the state may lease state lands for these purposes; non-residents must obtain a certificate of authority to transact business in the state from the Secretary of State prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: ARM 26.3.205

Contact: Department of State Lands
Centralized Services Division

2. *Procedure for Obtaining Lease*

a) A person wishing to lease state lands for oil and gas operations must submit an application for a lease on forms furnished by the Department of State Lands.

b) Sale of oil and gas leases normally is held once each quarter (March, June, September, December). Sale of each lease takes place through competitive oral bidding.

c) Notice of each sale is published in the Montana Oil Journal or in one of the state's general circulation publications.

d) The primary term of an oil and gas lease may be for no more than 10 and no less than five years, unless the Board determines that a shorter term is necessary. An oil and gas lease issued on state lands may not exceed 640 acres, except that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.

e) Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The Board may assign oil and gas leases to qualified assignees.

Statute: 77-3-404,405,406,421,429,430,438, MCA

Rules: ARM 26.3.206,207

3. *Fee/Rental*

The fee required for an oil and gas lease application is $10. Rentals are not less than $100 per year.

Rules: ARM 26.3.206,209

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. *Applicability*

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas.

Statute: 77-3-501, MCA, *et seq.*

Contact: Department of State Lands
Centralized Services Division

2. *Procedures*

a) The Board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.

b) Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. *Criteria*

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land, the entry of water into storage formation, or injury to oil or gas deposits.

OPERATIONS ON CITY, COUNTY OR SCHOOL DISTRICT LANDS

1. *Applicability*

The governing body of any city, county or local school district may lease its property for oil and gas development. The term of the lease may not exceed 10 years, and royalties must be at least 12.5 percent.

Statute: 82-10-201 through 204, MCA

Contact: Local Government

INCENTIVE FOR GASOHOL

1. *Applicability*

Tax incentive payments are available to distributors of alcohol for sale as gasohol. For schedule of payments, see statute.

Statute: 15-70-501, MCA, *et seq.*
Rules: ARM 42.27.401 *et seq.*

RECREATIONAL VEHICLES

MOTORBOATS

1. *Applicability*

Before operating a boat propelled by a motor or engine of any description on waters of the state, the owner must obtain and display license decals and identification numbers.

Statute: 23-2-511, MCA

2. *Procedure*

Application for a license and certificate of number must be made to the county treasurer of the county where the motorboat is owned. Number certificates and license decals expire on April 30 of the year of issuance and therefore must be renewed annually.

Statute: 23-2-512 and 23-2-515, MCA

3. *Exemptions*

License and numbering requirements do not apply to motorboats:

a) That are temporarily in the state (less than 90 days) and are covered by a number in full force and effect that has been assigned to it pursuant to federal law or a federally approved numbering system of another state;

b) From a country other than the U.S. temporarily using the waters of the state;

c) Owned by the U.S. or another state, or,

d) That serves as a ship's lifeboat.

Statute: 23-2-514, MCA

4. *Fees*

Application for identification number certificates cost $1.00. A personal property tax, based upon the value of the boat's motor, is collected by the county treasurer. Proof of payment is required to obtain license decals.

Statute: 23-2-501, MCA, *et seq.*

5. *Noise Restrictions*

A person operating a motorboat emitting noise in excess of 86 db(A) when measured at a distance of 50 feet is presumed to be creating a public nuisance and committing the offense of disorderly conduct unless operating under a motorboat racing permit issued by a political subdivision of the state.

Statute: 23-2-526, MCA

SNOWMOBILES

1. *Applicability*

Before operating a snowmobile on public land, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways, the owner must obtain a certificate of ownership and registration decal which must be displayed in a conspicuous place on the cowl of the vehicle.

Statute: 23-2-601, MCA, *et seq.*

2. *Procedure*

Application for a certificate of ownership and registration decal must be made to the county in which the owner resides. Registration decals expire on June 30 of the year of issuance and therefore must be renewed annually.

Statute: 23-2-611 and 23-2-616, MCA.

3. *Exemptions*

Certification and registration requirements do not apply to snowmobiles owned or operated by the U.S. or another state or to snowmobiles registered in another state or country and temporarily used within Montana pursuant to a temporary use permit (valid for 30 days or less) issued by the Department of Fish, Wildlife and Parks.

Statute: 23-2-614, MCA.

4. *Fees*

Application for Certificate of Ownership, $3.00. Registration Decal, $2.50. Annual fee in lieu of property tax, $22.00 for vehicles less than four years old, $15.00 for all others. Proof of payment is required to obtain registration decals. Non-resident temporary use permit, $6.00.

Statute: 23-2-611, 23-2-615-1, and 23-2-615, MCA

5. *Noise Restrictions*

Snowmobiles must be equipped at all times with noise-suppression devices. In addition, the following noise levels, measured at a distance of 50 feet, may not be exceeded:

a) 82 dB(A) for machines manufactured after June 30, 1972, but prior to June 30, 1975, and

b) 78 dB(A) for machines manufactured after June 30, 1975.

The noise restrictions do not apply to snowmobile races or competitive events held on private lands or to such events held on public lands provided consent from the appropriate government unit is obtained and the total sound produced does not exceed 50 dB(A) at any point 50 feet or more outside the area under the control of the sponsoring entity.

Statute: 23-2-634, MCA

Rule: ARM 12.6.602

SOLID WASTE - HAZARDOUS WASTE

SOLID WASTE DISPOSAL (NON-HAZARDOUS)

1. *Applicability*

A license is required from the Department of Health and Environmental Sciences for disposal of solid waste (with the possible exception of one's own non-hazardous waste on one's own land) and for the operation of a solid waste disposal facility. Sites are approved and licensed by the DHES and validated by local health officials.

"Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, hazardous wastes (See HAZARDOUS WASTE DISPOSAL), ashes, sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities, construction and demolition wastes, dead animals, discarded home and industrial appliances and wood products or byproducts. It does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated by the Department of State Lands, slash and forest debris regulated by the DSL or marketable wood byproducts.

Statute: Solid Waste Management Act, 75-10-201 MCA, *et seq.*

Rules: ARM 16.14.501 *et seq.*

Contact: Local Health Officer

Department of Health and Environmental Sciences
Solid Waste Management Bureau

2. *Application Requirements*

A person who wishes to apply for a license to conduct solid waste disposal or to operate a solid waste disposal facility must submit an application for the license to the DHES on forms furnished by the Department. The application must include the applicant's name and business address, location of the proposed facility, plan of operation and other information as requested.

Statute: 75-10-221(3), MCA

Rules: ARM 16.14.508,509

3. *Procedure for Obtaining License*

a) Time Requirements: The DHES will notify the applicant if additional information is required. If the additional information is not received within 90 days, the application must be resubmitted. The DHES must notify the local health officer within 15 days of receipt of the completed application.

b) A preliminary environmental review (PER) is a necessary part of the solid waste application review process. If indicated by the PER an EIS may be written.

c) Public Notification, Hearings, Appeal of Denial

(1) The DHES must send one copy of its proposed decision to the applicant and three copies to the local health officer for public posting.

(2) Publication of the proposed decision is required in local newspapers.

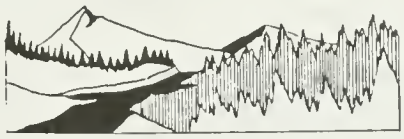
(3) The public has 30 days to submit written comments.

(4) The DHES notifies the local health officer of the final decision after the 30-day comment period. The local health officer then has 15 days to validate or refute the decision.

(5) If either the DHES or the local health officer denies the application for a license, the applicant has 30 days to appeal the decision.

Statute: 75-10-222 through 224, MCA

Rules: ARM 16.14.511,514



4. *Fees*

No fees are required unless an environmental impact statement is prepared. (See MONTANA ENVIRONMENTAL POLICY ACT, P. 88)

Statute: 75-1-201,MCA, *et seq.*

Rule: ARM 16.2.701 *et seq.*

5. *Variances*

Any person may apply to the Board of Health and Environmental Sciences for a variance from the rules issued pursuant to the Solid Waste Management Act. The Board may grant a variance if it finds that (1) failure to comply with the rules does not result in a danger to public health or safety or (2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety.

Statute: 75-10-206, MCA

Rule: ARM 16.14.602-608

6. *Cesspools, Septic Tanks and Privies*

Unless disposed of on the owner's property so as not to create a nuisance or health hazard, effluent from cesspools, septic tanks and privies must be disposed of by licensed cleaners on sites approved by the DHES and local sanitarian.

Statute: 37-41-101 *et seq.* MCA

Rule: ARM 16.14.801 *et seq.*

HAZARDOUS WASTE DISPOSAL

1. *Applicability*

a) Hazardous wastes must be properly contained and labeled. A waste meets the definition of hazardous waste if it is included in an EPA list of specific hazardous wastes or demonstrates any of the characteristics of ignitability, corrosivity, reactivity or toxicity under standard test procedures. A permit from the Department of Health and Environmental Sciences is required to construct or operate a hazardous waste management facility. Persons who transport hazardous wastes are required to notify the department and to obtain an identification number. Persons who generate hazardous waste (with certain exceptions) are required to maintain an annual generator registration and to pay a registration fee each year, in addition to obtaining an identification number. Substances regulated under the Strip and Underground Mining Reclamation Act (See P. 55) are exempt.

b) Disposal of "large quantity" radioactive material, byproduct material and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes, and uranium or thorium mill tailings. Certain special use materials (educational, scientific, research, medical, etc.) are exempt from this prohibition.

Statute: Montana Hazardous Waste Act, 75-10-401,MCA, *et seq.*and Montana Nuclear Regulation Act, 75-3-102,302, MCA

Rules: ARM 16.44.101 *et seq.*

Contact: Department of Health and Environmental Sciences
Solid Waste Management Bureau

2. *Application Requirements*

Any person who wishes to construct or operate a hazardous waste management facility must apply to the DHES for a permit on forms provided by the Department. An application must contain, at a minimum, the applicant's name and business address, the location of the proposed facility, a plan of operation and maintenance and a description of pertinent site characteristics. A permit may be issued for a period specified by the DHES, and it is subject to either renewal or revocation depending on compliance with the permit's provisions. The DHES may assess fees for reviewing a permit application or for modifying or reissuing permits.

Statute: 75-10-405 and 75-10-406, MCA

Rules: ARM Title 16, Chapter 44, Sub-Chapter 1

3. *Procedures for Obtaining Permit*

a) The DHES may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for treatment, storage or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit. Such emergency permits may be oral or written, may not exceed 90 days in duration and may be terminated by the DHES at any time prior to 90 days.

b) The DHES may grant permits by rule to classes or categories of hazardous waste management facilities where the owner or operator already holds a license or permit from the DHES pursuant to other state environmental statutes or where an interim period exists until final administrative action on a permit application is made.

c) A preliminary environmental review is a necessary part of the hazardous waste facility application review process. If indicated by the PER, an environmental impact statement may be written prior to permit issuance. (See MONTANA ENVIRONMENTAL POLICY ACT, P. 88.)

d) If it is determined that an application for a certificate under the Montana Major Facility Siting Act (Title 75, Chapter 20) will result in the generation, transportation, storage or disposal of hazardous wastes, the DHES must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the Montana Major Facility Siting Act. A decision to grant or deny a permit for the treatment, storage or disposal of hazardous wastes is appealable concurrently with and subject to the same procedures established for the appeal of the DHES's air and water quality certification decision under the Montana Major Facility Siting Act. (See MAJOR FACILITY SITING, P. 37.)

Statute: 75-10-406, 407, MCA

4. *Generators - Transporters*

Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including a manifest system for tracking the movement of all hazardous wastes.

Rules: ARM 16.44.401 *et seq.*, 501 *et seq.*

5. *Variances*

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Board of Health and Environmental Sciences for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste Act or any rule adopted under it. The Board may grant a variance or partial variance if it finds that (1) the applicant's actions or proposed actions regarding generation, transportation, treatment, storage or disposal of hazardous wastes do not constitute a danger to public health or safety or cause substantially adverse environmental effects and (2) the application of or compliance with the requirement or rule would produce unreasonable hardship to the applicant without equal or greater benefits to the public.

Statute: 75-10-408, MCA

MOTOR VEHICLE WRECKING FACILITIES

1. *Applicability*

An annual license from the Department of Health and Environmental Sciences is required to operate a motor vehicle wrecking facility. Such facilities must be properly shielded from view.

Statute: 75-10-504, 511,MCA

Rules: ARM 16.14.201,202

Contact: Department of Health and Environmental Sciences
Solid Waste Management Bureau

2. *Application Requirements*

Applications for a license to operate or maintain a motor vehicle wrecking facility can be obtained from the DHES. The license expires on December 31 of the year issued.

Statute: 75-10-511, MCA

Rule: ARM 16.14,201

3. *Procedure for Obtaining License*

The application for a license must include certification from the appropriate local government officials that the proposed facility does not violate local zoning ordinances. All such information must be included before the DHES can act on the application.

4. *Criteria*

(a) The DHES may deny, suspend or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission, fraud or rule violation.

(b) The DHES's decision to deny, suspend or revoke a license may be appealed to the Board of Health and Environmental Sciences within 30 days of the decision.

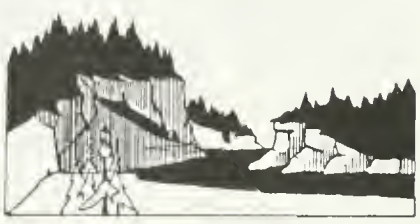
Statute: 75-10-511, 514, 515, MCA

Rules: ARM 16.14.201, 204

5. *Fees*

The DHES requires an annual fee of $50 for a license.

Statute: 75-10-511, 513, MCA



ROADSIDE JUNKYARDS

1. *Applicability*
The DOH licenses junkyards located within 1,000 feet of an interstate or primary highway right-of-way. The DHES licenses motor vehicle graveyards and wrecking facilities under Title 75, Chapter 10, Part 5 and licenses garbage dumps and sanitary landfills under Title 75, Chapter 10, Part 2.

Statute: 75-15-211 through 223, MCA

Rules: ARM 18.6.101 *et seq.*

Contact: Department of Highways
Right-of-Way Bureau

2. *Criteria*

No license may be granted for a junkyard within 1000 feet of the right-of-way of an interstate or federal primary highway unless it is adequately screened from view from the roadway or is located in an area zoned for industrial use, or in an unzoned industrial area.

3. *Fees*

The fee for a junkyard license is $25 per year.

Statute: 75-15-214, MCA

Rule: ARM 18.6.131

SUBDIVISIONS

SUBDIVISION AND PLATTING ACT

1. *Applicability*

a) All divisions of land which create a parcel of fewer than 20 acres must be surveyed and platted in accordance with the act. No transfer of title may be filed until a certificate of survey or subdivision plat is filed with the county clerk.

b) The review requirements do not apply to subdivisions resulting from relocation of common boundaries; sales to immediate family members; sales which include a covenant running with the land which provides for exclusively agricultural use of the land; "occasional sales"; subdivisions resulting from court orders, mortgages or severance of oil, gas or water interests from surface ownership; creation of cemetery lots, or lease or rental for farming or agricultural purposes. Although subdivision review does not apply in the above situations, the certificate of survey requirements do apply. Special requirements apply to condominiums and planned unit developments.

Statute: 76-3-101, MCA, *et seq.*

Contact: Local Government
Local Planning Board

Department of Commerce

2. *Procedures*

a) The developer submits his preliminary plat to the appropriate local governing body. (If a planned unit development is contemplated, the developer should receive PUD designation from the governing body prior to submission of the preliminary plat.)

b) The governing body of a city or county with a planning board or master plan must seek the advice of the planning board on all matters relating to subdivision approval, and may require compliance of subdivision plats with the master plan.

c) An environmental assessment prepared by the developer must accompany the preliminary plat. The assessment must contain a description of hydrology, topology, vegetation, wildlife, soils and a community impact report describing the demands the development will make on local services (fire, police, roads, etc.)

d) The governing body, after notice and a public hearing, makes its final decision within 60 days of receipt of the preliminary plat.

e) The developer must donate a portion of the subdivided land for public parks. In special cases, a cash contribution may be accepted in lieu of parkland.

f) The preliminary plat may be approved for one to three years, and the governing body may require a bond to guarantee completion of improvements called for before the final plat will be approved.

g) The final plat will be aproved by the governing body if it is in conformance with the conditions imposed on the preliminary plat. A final plat may not be filed with the county clerk until the State Department of Health and Environmental Sciences has lifted all sanitary restrictions. (See SANITATION IN SUBDIVISIONS, below)

3. *Criteria*

The basis for the governing body's decision is whether the subdivision would be in the public interest (i.e., the need for the project, public opinion and effects on agriculture, local services, taxation, the natural environment, wildlife and public health and safety).

Statute: 76-3-608, MCA

4. *Summary Review*

Summary review procedures are available in certain situations. If the subdivision is in compliance with a master plan and zoning regulations, it is deemed to be in the public interest and is exempt from the environmental assessment requirement. The development may also be exempted from all or part of the environmental assessment requirement if it contains fewer than ten parcels and less than twenty acres. Tracts with five or fewer parcels are eligible for special expedited procedures.

SANITATION IN SUBDIVISIONS

1. *Applicability*

All divisions of land which create a parcel of less than 20 acres, condominiums and recreational vehicle parks are subject to sanitary review. A subdivision plat cannot be filed with the county clerk, nor can structures be built or occupied until sanitary restrictions relating to water supply, sewage and solid waste disposal are lifted by the

Department of Health and Environmental Sciences. Review of minor subdivisions of five or fewer parcels may be delegated to local officials. Subdivisions within master planning areas, and for which municipal water and waste disposal services will be provided, may be exempt from sanitary restrictions.

Statute: Sanitation in Subdivisions Act, 76-4-101,MCA, *et seq.*

Rules: ARM 16.16.101 *et seq.*; local regulations

Contact: Department of Health and Environmental Sciences
Water Quality Bureau

Local Government

2. *Application Requirements*

The applicant who wishes to subdivide land must complete the joint subdivision application form for review by local and DHES officials. A copy of a preliminary plat or final plat, maps, proposed public water and sewage systems, and environmental assessment and a subdivision approval statement from the local health officer are also required.

Statutes: 76-3-504,603, 76-4-104,125, MCA

Rules: ARM 16.16.102-104

3. *Procedure for Obtaining Certification*

(a) Upon receipt of a subdivision application, the DHES has 60 days for final action. If an environmental impact statement is required, final action must be taken within 120 days. (See MONTANA ENVIRONMENTAL POLICY ACT, P. 88)

(b) The DHES may enter agreements with local governments regarding review of water supply, sewage and solid waste disposal facilities for subdivisions of five or fewer parcels. Local government officials have 50 days to recommend action on the application to the DHES. The DHES then has 10 days to take final action.

4. *Criteria*

The DHES's rules set standards and procedures relating to size of lots, topology, geology, hydrology, type of facilities proposed and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation and wildlife. There must be evidence of adequate water supply, drainage, sewage and solid waste disposal systems. The DHES will issue a certificate of approval when it is satisfied that water pollution will not occur, the water supply is of adequate quantity and acceptable quality and solid waste disposal is in accordance with state laws and regulations.

5. *Appeal of Denial*

The denial of plat certifications for a subdivision may be appealed to the Board of Health and Environmental Sciences.

Statute: 76-4-104,125, MCA

Rules: ARM 16.16.106,108

6. *Fees*

A schedule of fees, depending on the complexity of the project, is set out in the rules. Fees may be up to $48 per parcel or condominium unit.

Statute: 76-4-105, MCA

Rules: ARM 16.16.801 *et seq.*

CONSERVATION DISTRICTS

1. *Applicability*

If the subdivision is located within a conservation district that has adopted land use regulations, approval may be required from the conservation district supervisors.

Statute: 76-15-701, MCA, *et seq.*

Contact: Conservation District Supervisors

SALE OF SUBDIVIDED LAND

1. *Applicability*

Subdivisions of five or more parcels, a parcel of which is less than five acres in size, which are to be offered for sale outside of Montana, must be registered with the Board of Realty Regulation, and a notice of intention must be filed. Annual reports are required. In addition, if the subdivision involves 50 or more lots, not all of which are five or more acres, the developer must register the subdivision with the U.S. Department of Housing and Urban Development.

Statute: 76-4-1101, MCA, *et seq.*
Interstate Land Sales Act, 15 USC 1701 *et seq.*

Rules: ARM 40.56.410

Contact: Department of Commerce
Board of Realty Regulation

U.S. Department of Housing and
Urban Development
Office of Interstate Land Sales

2. *Application Requirements*

a) Prior to the time when subdivided lands are to be offered for sale or lease outside Montana, the owner, his agent or the subdivider must notify the Board in writing of his intention to sell or lease. The notice of intention must contain the following information:

(1) the name and address of the owner;

(2) the name and address of the subdivider;

(3) the legal description and area of lands, together with a map showing the layout proposed and relation to existing streets or roads;

(4) a true statement of the conditions of the title to the land, particularly including all encumbrances thereon;

(5) a true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any and all forms of conveyance intended to be used;

(6) a true statement of the provisions for legal access, sewage disposal and public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities;

(7) copies of any advertising, information, promotion brochures or similar material depicting the property which might cause or tend to induce purchase of the property or an interest therein.

(8) such other information as the owner, his agent or the subdivider may desire to present.

b) The Board may investigate any subdivision being offered for sale or lease.

c) It is unlawful for any person to incorporate in any advertising material or use for any advertising purposes the Board's results or findings.

Statute: 76-4-1104,1109,1114, MCA

3. *Fees*

a) A filing fee of $50 is required to file a notice of intention.

b) If the Board of Realty Regulation requires additional information on the proposed sale, the corresponding questionnaire must be accompanied by a filing fee of $100.

Statute: 76-4-1105,1107, MCA

UTILITIES

PUBLIC SERVICE COMMISSION

The Public Service Commission (PSC) has general authority over public utilities (i.e., organizations which provide heat, street or railway service, light, power, water, telegraph or telephone service to the public). The PSC issues certificates of public convenience and necessity, and regulates rates and services.

Statute: 69-1-101, MCA, *et seq.*

Rules: ARM 38.1.101 *et seq.*

Contact: Department of Public Service Regulation
Utilities Division

MUNICIPAL AND COUNTY UTILITY SYSTEMS

Utilities owned or controlled by a municipality, town or village or by a county or city-county water or sewer district are excluded from PSC jurisdiction. Rates and services for such systems are determined by the local governing body or district.

Statute: 69-7-101, MCA, *et seq.*

Contact: Municipal governing body

City or City-County water or sewer district

PIPELINES - MAINS - UTILITY LINES

1. *Applicability*

Permission to construct and operate natural gas pipelines must be obtained from the Public Service Commission. Construction of gas, water and other mains within city limits is regulated and approved by the city or town council. Boards of county commissioners have similar authority outside of municipalities. City or town councils may permit extension of utility lines outside of city limits. All plans for construction or extension of water or sewer lines must be approved by the Department of Health and Environmental Sciences (See SEWER SYSTEMS, P. 17 and PUBLIC WATER SUPPLIES, P. 16)

Statutes: 69-13-101, 7-13-4101, 7-13-4311,4312, 7-3-4452, 7-13-2101, 75-6-112, MCA

Rules: ARM 16.20.201 *et seq.*, 38.5.101 *et seq.* 16.20.401 *et seq.*

Contact: City or Town Council

Board of County Commissioners

Department of Public Service Regulation
Utilities Division

Department of Health and Environmental Sciences
Water Quality Bureau

OVERHEAD LINES

1. *Applicability*

The city or town council may regulate erection of poles and cables within city limits. The owner of agricultural lands may petition the district court for permission to relocate overhead lines. Persons moving buildings, equipment or other structures which will require the moving of overhead lines must give the person responsible for operating the lines 10 days notice or must pay half the reasonable cost of raising or cutting the wires or of moving the poles.

Statute: 69-4-401 *et seq.*, 69-4-602, 603, 7-13-4106, MCA
Contact: City or Town Council
Operator of lines

HIGHWAY UTILITY PERMITS

1. *Applicability*

Permits to construct utility mains and lines along state highway rights-of-way are granted by the Department of Highways. City councils and boards of county commissioners grant similar approval along city streets and county roads, respectively.

Statute: 7-13-4101, 7-13-2101, MCA

Rules: ARM 18.7.201 *et seq.*, 18.7.221-241

Contact: City or Town Council

Board of County Commissioners

Department of Highways
Area Field Maintenance Bureau

2. *Procedure for Obtaining Easements*

a) The utility must prepare and submit a notice of its proposed occupancy to the appropriate Division Office of the Department of Highways. The notice must be submitted in triplicate, accompanied by utility plans showing the locations of the proposed facilities with respect to the highway.

b) The supervisor or chief will review the occupancy as proposed by the utility. If approved, he must sign it, and if not, he must specify in writing the reasons the proposal does not comply with the standards.

c) The utility may resubmit its proposal after making the necessary changes to comply with the standards.

Rule: ARM 18.7.232
See also, HIGHWAY RIGHT-OF-WAY ENCROACHMENTS, P. 8.

MAJOR FACILITY SITING

1. *Applicability*

Certification by the Board of Natural Resources and Conservation and the Department or Board of Health and Environmental Sciences is required for construction of major utilities (power generation plants, transmission lines, pipelines, etc.) For details and agency contacts, see P. 37.

Statute: 75-20-101, MCA, *et seq.*

Rules: ARM 36.7.1201 *et seq.*

IMPROVEMENT AND UTILITY DISTRICTS

1. *Applicability*

A number of means of funding are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water and sewer systems, etc. Provisions vary, but typically, an improvement district may be established by the local governing body. In some cases, a petition by residents of the district is required. A board of directors may be elected or appointed, or the governing body itself may be in charge. The district may sell bonds to finance the improvements, and an assessment is levied on benefited property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should check with local authorities to determine applicable requirements.

Statutes: Special Improvement Districts:
7-12-2101, MCA, *et seq.*
Rural Improvement Districts:
7-12-4101, MCA, *et seq.*
Lighting Districts: 7-12-2201 *et seq*,
7-12-4301, MCA, *et seq.*
Street Parking: 7-12-4501, MCA, *et seq.*
Metropolitan Sewer District:
7-13-101, MCA, *et seq.*
County Water/Sewer District:
7-13-2201, MCA, *et seq.*
Public Sewer Systems: 7-13-4201, MCA, *et seq.*
Municipal Sewage/Water Systems:
7-13-4301, MCA, *et seq.*
Municipal Revenue Bonds:
7-7-4401, MCA, *et seq.*
Industrial Revenue Bonds: 90-5-101, MCA, *et seq.*

WEATHER MODIFICATION

1. *Applicability*

A license and permit from the Board of Natural Resources and Conservation are required to engage in weather modification and control activities.

Statute: 85-3-101, MCA

Rule: ARM 36.20.101

Contact: Department of Natural Resources
and Conservation
Water Resources Division

2. *Application Requirements*

A license is required of any person wishing to engage in weather modification activities within Montana. Applicants for such licenses must demonstrate competence in the field of meteorology. A license expires at the end of the calendar year in which it is issued; at the expiration of the period, qualified licensees may apply for, and be issued, a renewed license.

Persons holding a valid weather modification license must apply for, and be issued, a permit before they may engage in actual weather modification and control activities. Separate permits are required for each operation. An applicant for a permit to conduct weather modification activities must file a notice of intention with the DNRC. The notice must include the applicant's name and address and information on the operations, the area to be affected and the materials and methods to be used. The DNRC must publish the notice at least once a week for two consecutive weeks in a newspaper in the affected county. A public hearing may be required. License and permit forms are available from the DNRC.

Statute: 85-3-201, 203, 204, 206 through 210, MCA.

3. *Fees*

a) The fee for a license or renewal to conduct weather modification is $10.

b) The fee for a permit to conduct weather modification operations equals 1 percent of the estimated cost of the operation.

c) The applicant must reimburse the DNRC for the costs of publishing the notice of intention. The applicant may, at the discretion of the DNRC, be assessed for the costs associated with holding a public hearing on a permit application.

Statute: 85-3-205, 206, 210(2), 212, MCA

4. *County Weather Modifiction Authority*

On petition of county residents, a county may establish a weather modification authority to engage in weather modification activities.

Statute: 85-3-401 *et seq.*, MCA

montana environmental policy act

environmental impact statements

1. *Applicability*

Before taking any major action which will significantly affect the quality of the human environment, a state agency must prepare an environmental impact statement discussing the environmental impacts of the proposed action, alternatives to the proposal which might have lesser impacts, mitigative measures, irretrievable commitments of resources, etc. The EIS requirement applies to issuance of state permits, licenses and approvals for private actions which will have significant environmental impacts. Individual agencies may have categorically exempted certain types of actions.

Statute: 75-1-101, MCA, *et seq.*

Rules: Agriculture: ARM 4.2.301 *et seq*
Fish, Wildlife, and Parks: 12.2.401 *et seq*
Health and Environmental Sciences: 16.2.601 *et seq*
Highways: 18.2.201 *et seq*
State Lands: 26.2.601 *et seq*
Livestock: 32.2.201 *et seq*
Natural Resources: 36.3.501 *et seq*

Contact: Specific Agency

Environmental Quality Council

2. *Procedures*

a) After receipt of a complete application for a permit or license, the agency will prepare a preliminary environmental review (PER) to determine whether a full EIS is necessary. If the need for an EIS is clear, the PER step may be bypassed.

b) If the PER indicates no potential significant environmental impact, no EIS need be prepared and the permit application will be processed normally.

c) If an EIS is necessary, the agency will prepare a draft EIS which is circulated to other agencies and to the public for comment. At least 30 days must be allowed for comment, with a 30-day extension available on request. The applicant has the opportunity to respond to comments.

d) If the agency determines an EIS is necessary, a public hearing will be held after publication of the draft EIS to receive public comment.

e) A final EIS will be prepared, if necessary, incorporating responses to comments on the draft and comments received at the hearing, if one was held.

f) Final action on the permit may not be taken sooner than 45 days after publication of the draft EIS, nor sooner than 15 days after publication of the final EIS.

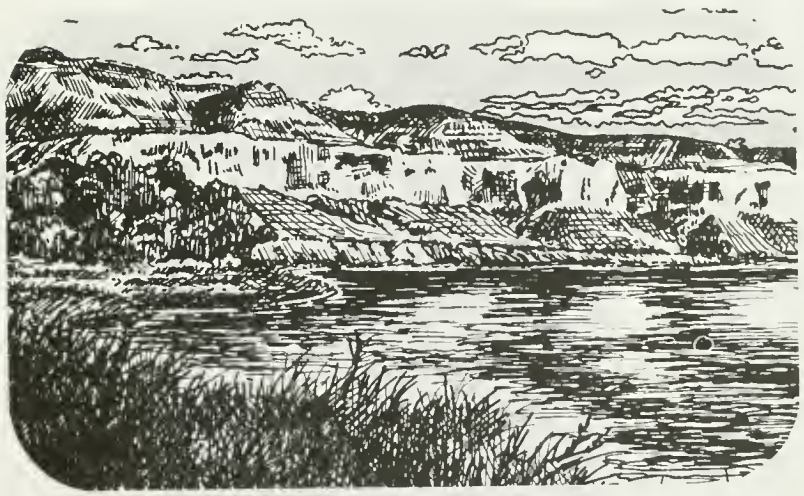
3. *Fees*

If the cost of preparing the EIS will exceed $2500, the agency may assess a fee from the applicant to help pay the costs of EIS preparation. The agency must notify the applicant within 30 days after receipt of the complete application if a fee will be required. A fee schedule based on the cost of the proposed project is set forth in the statute.

Statute: 75-1-203, MCA

4. *Multi-Agency Projects*

When a single project requires permits from two or more agencies, a lead agency will be designated to collect the EIS fee and to coordinate preparation of all necessary EISs.



montana administrative procedure act

1. *Applicability*

Whenever a license or permit decision is required by statute to be preceded by a hearing, the contested case provisions of the Administrative Procedure Act apply.

Statute: 2-4-601, MCA, *et seq.*

Rules: ARM 1.3.101 *et seq*

2. *Procedures*

All parties must be afforded an opportunity for hearing after reasonable notice. Parties are entitled to be represented by an attorney. If formal hearing procedures are followed, the rules of discovery and evidence, right to cross-examine witnesses, rules of privilege, etc., will apply, except as otherwise provided by statute. If all parties agree, less formal procedures may be followed. A hearing officer may be appointed to make findings and recommendations to the agency decision makers. A transcript of the hearing will be made available on request. Within 30 days after the agency's final decision, an aggrieved party may appeal the decision to district court.

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ADMINISTRATION, DEPARTMENT OF

Director, Morris Brusett
Room 155, Sam W. Mitchell Building
Helena, MT 59620
(406) 444-2032

ARCHITECTURE AND ENGINEERING DIVISION

Administrator, Philip Hauck
1500 East Sixth Avenue
Helena, MT 59620
(406) 444-3104

Construction Bureau
1500 East Sixth Avenue
Helena, MT 59620
(406) 444-3104

Building codes

BUILDING CODES DIVISION

Administrator, James Kembel
1218 East 6th Avenue
Helena, MT 59620
(406) 444-3933

State building code

AGRICULTURE, DEPARTMENT OF

Director, Keith Kelly
Scott Hart Building
303 Roberts
Helena, MT 59620
(406) 444-3144

ENVIRONMENTAL MANAGEMENT DIVISION

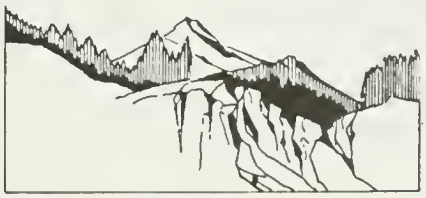
Administrator, Gary Gingery
(406) 444-2944

Pesticides registration

PLANT INDUSTRY DIVISION

Administrator, Roy Bjornson
(406) 444-3730

Fertilizer registration



COMMERCE, DEPARTMENT OF

Director, Gary Buchanan
1424 Ninth Avenue
Helena, MT 59620
(406) 444-3494

AERONAUTICS DIVISION

Administrator, Michael Ferguson
Airport Road
Helena, MT 59620
(406) 444-2506

Pesticides, aerial applicator licensing
Air carriers
Airport licensing

INDIAN AFFAIRS UNIT

Coordinator of Indian Affairs,
Louie Clayborn
(406) 444-3702

DIVISION OF ECONOMIC AND COMMUNITY DEVELOPMENT

Administrator, Wallace Olson
(406) 444-3757

Licensing Coordinator, John Maloney
(406) 444-3494

Hardrock Mining Impact Section,
Carol Ferguson

Hardrock Mining

ENVIRONMENTAL QUALITY COUNCIL

Executive Director, Deborah Schmidt
Capitol Building
Helena, MT 59620
(406) 444-3742

Environmental impact statements

FISH, WILDLIFE AND PARKS, DEPARTMENT OF

Director, James Flynn
1420 East Sixth Avenue
Helena, MT 59620
(406) 444-3186

CENTRALIZED SERVICES DIVISION

Administrator, David Mott
(406) 444-4786

License Bureau
Chief, James Herman
(406) 444-4558

Fish and game licenses
Special permits and licenses

FISHERIES DIVISION

Administrator, Arthur Whitney
(406) 444-2559

Salmon eggs, importation
Streambed protection
Stream preservation

LAW ENFORCEMENT DIVISION
Administrator, Erwin Kent
(406) 444-2452

Game for scientific purposes
Ice fishing shelters
Hunting regulations
Snare trapping
Outfitters licensing
Game or fur farm
Roadside zoos
Shooting preserves
Fur dealers
Snowmobiles
Shooting preserve bird tags
Commercial seining

WILDLIFE DIVISION
Acting Administrator, Dale Witt
(406) 444-2612

Migratory waterfowl permits
Baits on Fish, Wildlife and Parks land
Wild bird permits

HEALTH AND ENVIRONMENTAL SCIENCES, DEPARTMENT OF

Director, John J. Drynan, M.D.
Room C108, Cogswell Building
Helena, MT 59620
(406) 444-2544

Deputy Director, John W. Bartlett
(406) 444-2544

ENVIRONMENTAL SCIENCES DIVISION
Administrator, Don Willems
Room A107, Cogswell Building
(406) 444-3948

Air Quality Bureau
Chief, Hal Robbins
Room A116, Cogswell Building
(406) 444-3454

Burning permits
Air pollution permits
Major facility certificates

Food and Consumer Safety Bureau
Chief, Vern Sloulin
Room A201, Cogswell Building
(406) 444-2408

Dairies
Food service establishments
Lodging establishments
Trailer courts, campgrounds

Occupational Health Bureau
Chief, Larry L. Lloyd
Room A113, Cogswell Building
(406) 444-3671

Occupational emissions
Noise
Radioactivity

Solid Waste Management Bureau
Chief, Duane Robertson
Room B201, Cogswell Building
(406) 444-2821

Roadside junkyards
Solid waste disposal
Motor vehicle wrecking facilities
Hazardous waste disposal

Water Quality Bureau
Chief, Steven Pilcher
Room A206, Cogswell Building
(406) 444-2406

Sewer systems
Water pollution permits
Public water supplies
Animal confinement facilities - discharge permit
Major facility certification
Oil and gas wells - discharge permit
Treatment plant operator certification
Uranium solution extraction
Hardrock mining - discharge permit
Short-term construction projects impacting water quality subdivisions

HIGHWAYS, DEPARTMENT OF

Director, Gary Wicks
Room A261, Highway Building
2701 Prospect Avenue
Helena, MT 59620
(406) 444-2482

Right-Of-Way Bureau
Chief, Jack Ricker
(406) 444-2008

Land and Records
Gordon Foley
(406) 444-2002

Outdoor advertising
Roadside junkyards

Area Field Maintenance Bureaus
(see INDEX II)

Approach permits
Encroachments
Utility permits

Program Development Division
Robert Champion, Administrator

Special Permits Section
Supervisor, Carolyn O. Knuckles
(406) 444-2476

Special vehicle permits

JUSTICE, DEPARTMENT OF

Attorney General, Mike Greely
Justice Building
Helena, MT 59620
(406) 444-2026

LAW ENFORCEMENT SERVICES DIVISION

Fire Marshal Bureau
Chief, Robert Kelly
Scott Hart Building
Helena, MT 59601

Fire inspection
(406) 444-2050

LABOR AND INDUSTRY, DEPARTMENT OF

Commissioner, David Hunter
Room 412, Employment Security Building
Lockey and Roberts
Helena, MT 59620
(406) 444-3661

WORKERS' COMPENSATION DIVISION
Administrator, Gary Blewett
815 Front Street
Helena, MT 59601
(406) 444-2047

Safety and Health Bureau
Chief, Ed Gatzemeier
510 Logan
Helena, MT 59601
(406) 444-3402

Coal mining safety regulations
Open cut mining safety regulations

LIVESTOCK, DEPARTMENT OF

ANIMAL HEALTH DIVISION
Third Floor, Scott Hart Building
301 Roberts
Helena, MT 59620
(406) 444-2043

Disease Control Bureau
Chief, Bradford Newcomb, D.V.M.
(406) 444-2043

Slaughterhouses and meat packing plants
Rendering and disposal plants

Milk and Egg Bureau
Chief, Everett Tudor
(406) 444-2043

Dairies

BRANDS ENFORCEMENT DIVISION
Administrator, Les Graham
(406) 444-2043

Vertebrate Pest Control
Aerial hunting permits

MONTANA HISTORICAL SOCIETY

Director, Dr. Robert Archibald
225 North Roberts
Helena, MT 59620
(406) 444-2694

Antiquity site preservation

NATURAL RESOURCES AND CONSERVATION, DEPARTMENT OF

Director, Leo Berry, Jr.
32 South Ewing
Helena, MT 59601
(406) 449-3712

ENERGY DIVISION

Administrator, Laurence Siroky
25 South Ewing
Helena, MT 59601
(406) 444-3780

Conservation and Renewable Energy Bureau
(406) 444-3940

Geothermal development

Planning and Analysis Bureau
Chief, Alan Davis
(406)444-3780

Major Facility Siting Certification

Facility Siting Bureau
Chief, Van Jamison
(406)444-6812

Major Facility Siting Certifications

OIL AND GAS CONSERVATION DIVISION

Administrator, Charles Mayo
2535 St. Johns Avenue
Billings, MT 59102
(406) 656-0040

Assistant Administrator, Dee Rickman
25 South Ewing
Helena, MT 59601
(406) 444-2611

Oil and gas development
Geophysical exploration

WATER RESOURCES DIVISION

Administrator, Gary Fritz
32 South Ewing
Helena, MT 59601
(406) 449-2872

Lakeshores

Engineering Bureau
Chief, Richard Bondy
(406) 444-2864

Dams and reservoirs
Floodplain regulations
Hydroelectric sites

Water Development Bureau
Chief, Caralee Cheney
(406)444-3760

Weather Modification

Water Rights Bureau
Chief, Larry Holman
(406) 444-3962

Water rights
Water appropriations

Water Management Bureau
Chief, Richard Moy
(406)444-2872

CONSERVATION DISTRICTS DIVISION

Administrator, Ray Beck
25 S. Ewing (Basement)
Helena, MT 5960l
(406)444-5640

Stream beds
Stream banks
Soil and Water Conservation

PUBLIC SERVICE REGULATION, DEPARTMENT OF

Executive Director, William Optiz
1227 Eleventh Avenue
Helena, MT 59620
(406) 444-3017

TRANSPORTATION DIVISION

Administrator, Wayne Budt
(406) 444-2549

- Motor carriers
- Rail carriers

UTILITIES DIVISION

Administrator, Dan Elliott
(406) 444-2649

- Pipelines
- Utilities

REVENUE, DEPARTMENT OF

Director, Ellen Feaver
Room 455, Sam W. Mitchell Building
Helena, MT 59620
(406) 444-2460

LIQUOR DIVISION

Administrator, Howard Heffelfinger
Room 375, Mitchell Building
Helena, MT 59620
(406) 444-2540

- Liquor license
- Resort license

MOTOR FUELS DIVISION

Administrator, Norris Nichols
Airport Road
Helena, MT 59620
(406) 444-3474

- Special fuels
- Gasoline dealers

SECRETARY OF STATE

James Waltermire
Room 202, State Capitol
Helena, MT 59620
(406) 444-2034

- Geophysical exploration

STATE LANDS, DEPARTMENT OF

Commissioner, Dennis Hemmer
1625 Eleventh Avenue
Helena, MT 59620
(406) 444-2074

CENTRALIZED SERVICES DIVISION

Administrator, Jim Williams

- Cropland leases
- Grazing leases
- Geothermal leases
- Mining leases
- Hydroelectric sites
- Oil and gas leases
- Underground storage of natural gas
- Oil and gas exploration permit
- Uranium and other fissionable material leases

FORESTRY DIVISION

Administrator, Gary Brown
2705 Spurgin Road
Missoula, MT 59801
(406) 728-4300

- Cabin Sites
- Burning permits
- Slash disposal
- Portable sawmills
- Christmas tree cutting
- Timber removal
- Timber sales

RECLAMATION DIVISION

Administrator, Gary Amestoy

- Coal and uranium mining
- Hardrock mining
- Open cut mining

LAND ADMINISTRATION DIVISION

Administrator, Kelly Blake

- Natural areas
- Prospecting permits on state lands
- Mining leases

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FISH, WILDLIFE AND PARKS, DEPARTMENT OF

Billings: 1125 Lake Elmo Drive
(406) 252-4654

Bozeman: 8695 Huffine Lane
(406) 586-5419

Glasgow: RR 1-210
(406 228-9347

Great Falls: RR 4041
(406) 545-3441

Kalispell: Box 67
(406) 755-5505

Miles City: Box 430
(406) 232-4365

Missoula: Spurgin Rd.
(406) 721-5808

HEALTH AND ENVIRONMENTAL SCIENCES, DEPARTMENT OF

AIR QUALITY BUREAU

Billings: 3314 Second Ave N.
Box 20296
(406) 248-3266

FOOD AND CONSUMER SAFETY BUREAU

Billings: 3302 2nd Ave. North
(406) 252-5697

WATER QUALITY BUREAU

Billings: 3302 2nd Ave. North
(406) 252-5697

HIGHWAYS, DEPARTMENT OF

DISTRICT AND AREA FIELD OFFICES

Billings: Box 20437
(406) 252-4138

Bozeman: Box 1110
(406) 586-9562

Helena: 2701 Prospect
(406) 449-2676

Kalispell: Box 400
(406) 755-5717

Butte:	Box 3068 (406) 494-3224	Glendive:	Box 890 (406) 365-5296
Great Falls:	Box 1359 (406) 453-0422	Havre:	Box 592 (406) 265-6821
Lewistown:	Box 491 (406) 538-8731	Miles City:	Box 460 (406) 232-1093
Missoula:	Box 7039 (406) 549-6491	Wolf Point:	Drawer L (406) 653-1050

NATURAL RESOURCES AND CONSERVATION, DEPARTMENT OF

WATER RIGHTS BUREAU FIELD OFFICES

Billings:	Keith Kerbel 1537 Ave. D, Suite 352 (406) 657-2105	Kalispell:	Charles Brasen Box 860 (406) 752-2288
Bozeman:	Scott Compton Bozeman Prof. Building 1201 East Main (406) 586-3136 586-3137	Lewistown:	Sam Rodriquez Box 438 (406) 538-7459 538-7012
Glasgow:	Vivian Lighthizer 110 5th St. S. (406) 228-2561	Miles City:	Walter Rolf Box 276 (406) 232-6359
Havre:	Robert Larson Old Highway 2 Box 1828 (406) 265-5516 265-5517	Missoula:	David Pengelly Box 5004 (406) 721-4284
Helena:	T.J. Reynolds 28 South Rodney (406) 444-6695		

STATE LANDS, DEPARTMENT OF

FIELD OPERATIONS SUPERVISORS

Billings:	Don Kendall Suite 121 1537 Ave. D (406) 248-6540	Lewistown:	Craig Roberts USDA Building 613 Northeast Main (406) 538-5989
Helena:	Larry Pyke 8001 North Montana (406) 449-3637	Missoula:	Chuck Wright 1401 27th Ave. (406) 728-4300
Kalispell:	Jim Gregg Box 490 (406) 755-6575		

index III: local permitting authorities

LOCAL GOVERNING BODIES (CITY-TOWN COUNCIL OR BOARD OF COUNTY COMMISSIONERS)

- Airport zoning
- Building codes
- Burning permits
- Ferries
- Fire inspection
- Floodway regulation
- Geophysical exploration
- Highway excavations
- Improvement districts
- Lakeshore protection
- Liquor licenses
- Mains, water and sewer
- Mining claims
- Oil and gas leases
- Overhead lines
- Stream preservation
- Subdivision plat approval
- Timber removal
- Utility extensions
- Water appropriations
- Zoning

CONSERVATION AND GRAZING DISTRICT SUPERVISORS

- Agricultural activities
- Grazing leases
- Land use regulations
- Forestry activities
- Subdivision activities

SHERIFF

- Fire inspection

DISTRICT COURT

- Mining right-of-way
- Overhead lines

LOCAL HEALTH OFFICIALS

- Air pollution permits
- Campgrounds
- Dairies
- Food service establishments
- Lodging establishments
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- Subdivision, sanitary restrictions
- Tourist campgrounds
- Trailer courts

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DEPARTMENT OF AGRICULTURE

FOREST SERVICE
(Contact local forest supervisor or district ranger)

Burning permits
Grazing leases

ARMY CORPS OF ENGINEERS

MISSOURI RIVER DIVISION
Box 103, Downtown Station
Omaha, Nebraska 68101
(406) 221-7299

OMAHA DISTRICT
6014 U.S. Post Office
215 North 17th
Omaha, Nebraska 68102
(402) 221-3900

Stream preservation, wetlands
Dams and reservoirs

NORTH PACIFIC DIVISION
Box 2870
Portland, Oregon 97208
(503) 221-3700

SEATTLE DISTRICT
4735 East Marginal Way S
Seattle, Washington 98134
(206) 764-3690

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF INTERSTATE LAND SALES
Carroll Goodwin, Area Officer
Executive Tower
1405 Curtis Street
Denver, Colorado 80202
(303) 837-3102, 837-2428

DEPARTMENT OF THE INTERIOR

BUREAU OF MINES
East 360 Third Ave.
Spokane, Washington 99202
(509) 484-6810

Montana Liaison Office
Spokane, Washington 99202
(509) 439-5350 Recording of mining claims

BUREAU OF LAND MANAGEMENT
Granite Tower
Billings, Montana 59107
(406) 657-6561

Grazing leases

ENVIRONMENTAL PROTECTION AGENCY

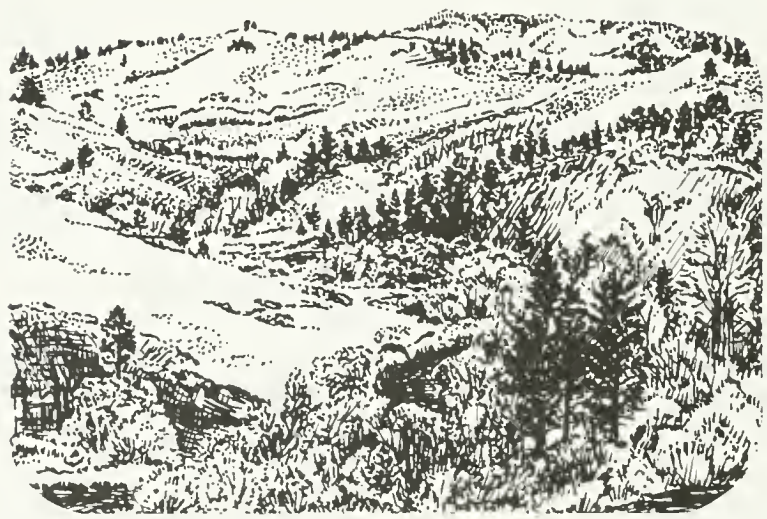
MONTANA OFFICE
Director, John Wordell
301 South Park Avenue
Drawer 10096
Helena, Montana 59626
(406) 449-5432

Air pollution permits (PSD - on tribal lands only)
Water Pollution
Pesticides

FEDERAL ENERGY REGULATORY COMMISSION

REGIONAL OFFICE
333 Market Street, Sixth Floor
San Francisco, California 94105
(415) 974-7177

Hydroelectric sites



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Date

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